

No. 14080

United States
Court of Appeals
for the Ninth Circuit

WONG KEN FOON, as Guardian Ad Litem for
WONG HING GOON,

Appellant,

vs.

HERBERT BROWNELL, JR., Attorney General
of the United States,

Appellee.

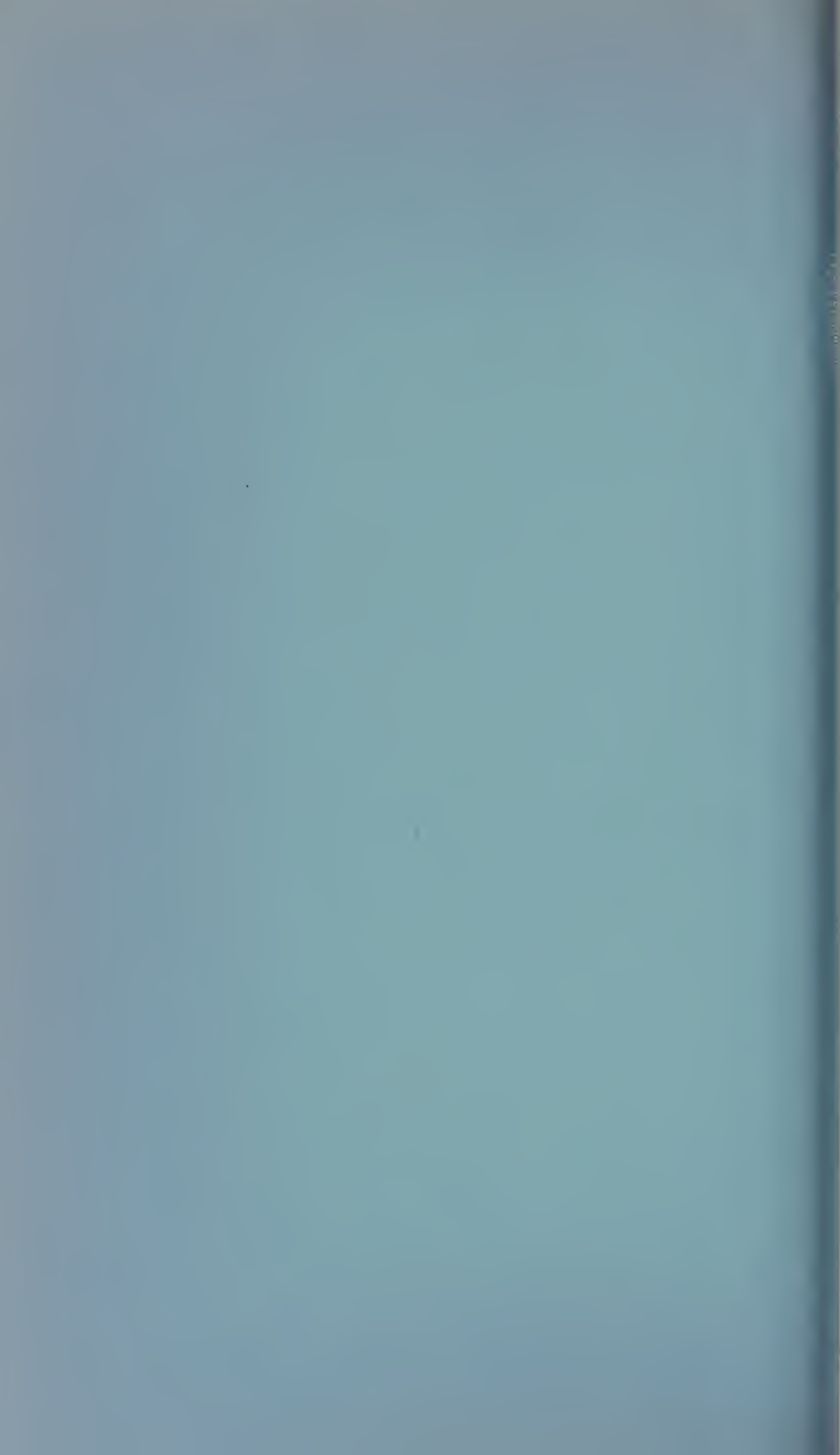
Transcript of Record

Appeal from the United States District Court for the
Southern District of California,
Central Division.

FILED

NOV 24 1953

PAUL R. O'BRIEN



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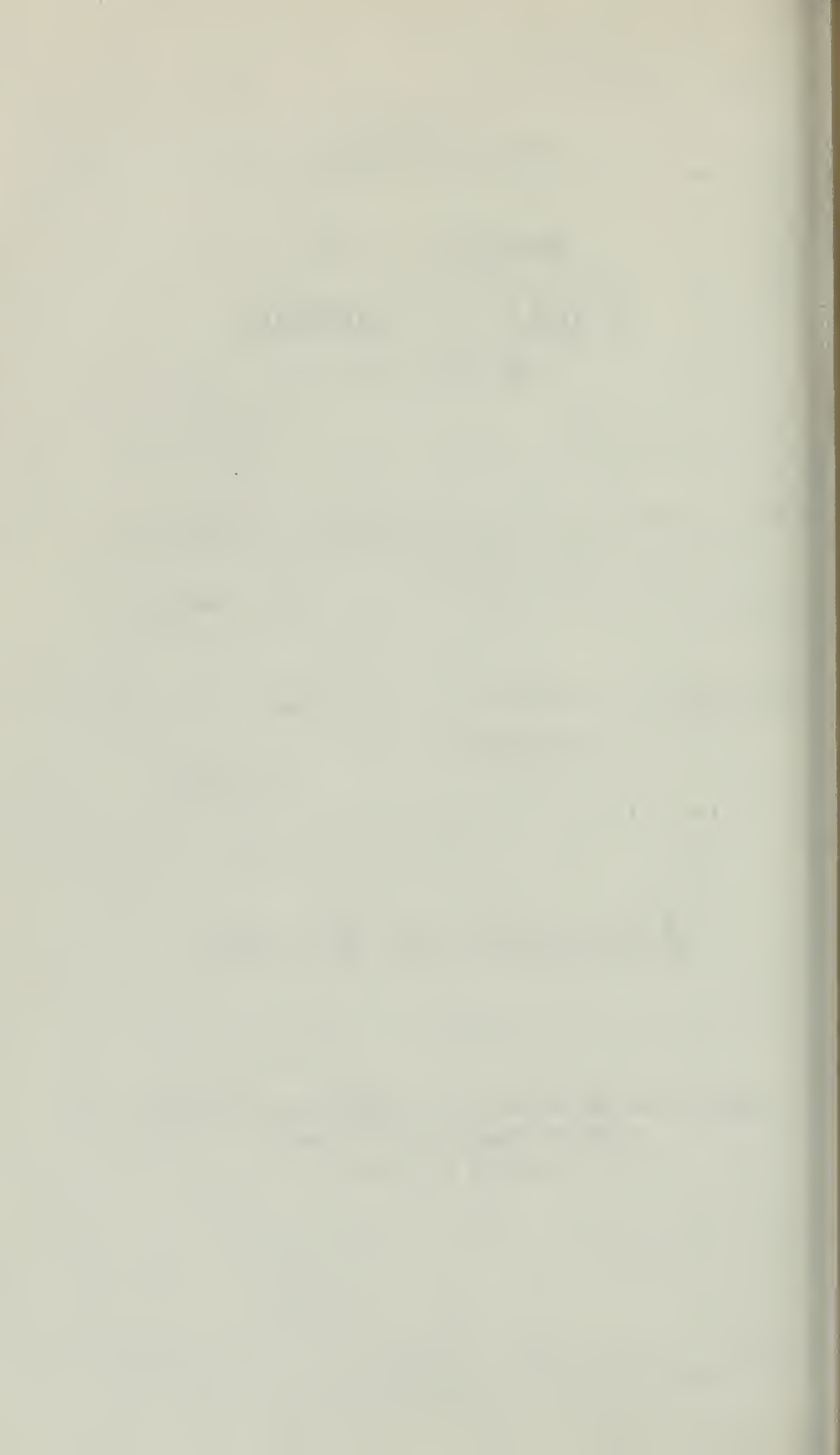
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

BRENNAN & CORNELL,
Suite 812 Rowan Bldg.,
458 S. Spring St.,
Los Angeles 13, Calif.

For Appellee:

LAUGHLIN E. WATERS,
United States Attorney;

CLYDE C. DOWNING,
Assistant U. S. Attorney,
600 Federal Bldg.,
Los Angeles 12, Calif.



In the United States District Court in and for the
Southern District of California, Central Division

No. 14406

WONG KEN FOON as Guardian Ad Litem for
WONG HING GOON,

Plaintiff,

vs.

JAMES P. McGRANERY, as United States At-
torney General,

Defendant.

PETITION TO ESTABLISH NATIONALITY;
DECLARATORY JUDGMENT UNDER
SECTION 503 OF THE NATIONALITY
ACT OF 1940

Comes now the plaintiff, Wong Hing Goon, by
his guardian ad litem, Wong Ken Foon, and com-
plains of the defendant and for cause of action al-
leges:

I.

For the purpose of this action, Wong Ken Foon
was appointed by the above-entitled Court and now
is the guardian ad litem of plaintiff, Wong Hing
Goon.

II.

That said plaintiff is a true and lawful blood
child of Wong Ken Foon who is a citizen of the
United States; that as evidence of his United
States citizenship, Wong Ken Foon holds Certifi-
cate of Identity No. 32494 issued January 3, 1921,

by the Immigration Office at San Francisco, California; that said Wong Ken Foon was born at Nom On Village, Hoy Sun District, Canton, China, on January 1, 1909 (KS 34-12-10). [2*]

III.

That the said Wong Ken Foon was admitted to the United States as the son of a Native, at San Francisco, California, when he arrived on November 26, 1920, on the S.S. Tjikemsang (File No. SF 19729/33-13); that Wong Ken Foon has been a permanent resident of the United States since November 26, 1920; that said Wong Ken Foon has made two trips from the United States to China, as follows, to wit:

Departed from San Francisco, September 27, 1926, via S.S. President Taft, and returned to San Francisco on October 5, 1927, via S.S. President Grant;

Departed from Los Angeles July 10, 1932, via S.S. President McKinley, and returned to Los Angeles August 21, 1933, via S.S. President Grant.

IV.

That the said Wong Ken Foon was married to Eng Shee on September 28, 1926 (CR 15-8-22), at Nom On Village, Hoy Sun District, Kwangtung, China; that such marriage was contracted in accordance with the marriage customs and ceremonies approved and legally recognized in China; that no official record of such marriage is available in China

*Page numbering appearing at foot of page of original Certified Transcript of Record.

so far as the said Wong Ken Foon is informed; that the plaintiff, Wong Hing Goon, was born June 24, 1927 (CR 16-5-25), at Nom On Village, Hoy Sun District, Canton, China; that the plaintiff, Wong Hing Goon, is issue of the aforesaid marriage of Wong Ken Foon and Eng Shee; that the aforesaid marriage and the birth of said plaintiff was duly reported to the Immigration and Naturalization Service by the said Wong Ken Foon upon each and every occasion of his examination by that service.

V.

That the said Wong Ken Foon is and has been continuously since November 26, 1920, a resident within the Southern District of California, Central Division; that the petitioner, Wong Hing Goon, [3] claims permanent residence in the Southern District of California, Central Division, and within the jurisdiction of this Court.

VI.

That the said Wong Ken Foon caused to be filed with the United States Department of Justice, on or about the 18th day of January, 1952, an application for admission to the United States, at Terminal Island, San Pedro, California, in behalf of the plaintiff herein; that said plaintiff was advised by the United States Department of Justice at Terminal Island, San Pedro, California, on the 1st day of August, 1952; that said petitioner's application for admission had been denied; that the said Wong Hing Goon claims that the refusal of the

United States Department of Justice to permit his admission to the United States is an arbitrary and unreasonable refusal or denial of a right or privilege of a United States national. .

VII.

That the defendant is the duly appointed, qualified and acting Attorney General of the United States; that the plaintiff's application for admission to the United States was denied by the United States Department of Justice on the 1st day of August, 1952; that the United States Department of Justice did, on the 1st day of August, 1952, deny the plaintiff a right or privilege as a national of the United States.

VIII.

That this complaint is filed and these proceedings are instituted against the defendant under Section 503 of the Nationality Act of 1940 (54 Stat. 1171, 1172, 8 U.S.C. 903), for a judgment declaring the plaintiff to be a national of the United States.

IX.

That the plaintiff has never committed any act of or executed any instrument of expatriation now renounced his United States citizenship; that the plaintiff is entitled to be declared a national of the United States. [4]

X.

That the plaintiff, Wong Hing Goon, claims to be a United States citizen and/or national, such citizenship and/or nationality having been acquired pur-

suant to the provisions of Section 1993, Revised Statutes of the United States, as amended by the Act of May 24, 1934, and Section 201 (g) of the Nationality Act of 1940 (8 U.S.C.A. 601 (g)).

Wherefore, plaintiff prays for judgment declaring him to be a national of the United States and for such other and further relief as may be just and proper.

BRENNAN & CORNELL,

By /s/ BERNARD BRENNAN,
Attorneys for Plaintiff.

Duly verified.

[Endorsed]: Filed August 12, 1953. [5]

[Title of District Court and Cause.]

ANSWER

Comes Now the defendant, James P. McGranery, as United States Attorney General, through his attorneys, Walter S. Binns, United States Attorney for the Southern District of California, and Clyde C. Downing and Arline Martin, Assistants United States Attorney for the Southern District of California, and in answer to plaintiff's Complaint herein, admits, denies and alleges as follows:

I.

Admits the allegations contained in Paragraph I of said Complaint.

II.

Referring to the first averment of Paragraph II of said Complaint, denies that plaintiff is a true and lawful blood child of Wong Ken Foon who is a citizen of the United States; admits the remainder of the allegations contained in Paragraph II of said Complaint.

III.

Referring to the allegations contained in Paragraph III of said Complaint, admits that the said Wong Ken Foon was admitted by a Board of Special [7] Inquiry to the United States as the son of a native at San Francisco, California, on December 27, 1920, and admits that he arrived on November 26, 1920, on the S.S. Tjikemsang; admits each and every other allegation in said Paragraph III contained.

IV.

Referring to the allegations contained in Paragraph IV of said Complaint, denies said allegations.

V.

Admits the allegations contained in Paragraph V of said Complaint.

VI.

Referring to the last sentence contained in Paragraph VI of said Complaint, denies that the refusal of the United States Department of Justice to permit his admission to the United States is an arbitrary and unreasonable refusal, and admits that the denial to admit plaintiff is a right or privilege of a United States national and alleges that the Depart-

ment of Justice denies such right or privilege to plaintiff on the grounds that he is not a citizen; admits each and every other allegation contained in said Paragraph VI; alleges that on July 24, 1952, the Board of Immigration Appeals denied a motion to reopen proceedings before the Board of Special Inquiry and dismissed plaintiff's appeal.

VII.

Referring to the allegations contained in Paragraph VII of said Complaint, admits that the defendant is the duly appointed, qualified and acting Attorney General of the United States; that plaintiff's application for admission to the United States was denied by the United States Department of Justice on July 24, 1952, and that plaintiff was advised of that decision on the 1st of August, 1952, and admits that such denial was the denial of a right or privilege of a national of the United States and alleges that the denial was on the grounds that plaintiff was not a national of the United States; denies each and every other allegation therein contained.

VIII.

Defendant neither admits nor denies the allegations contained in Paragraph VIII of said Complaint, the same being a conclusion of law. [8]

IX.

Referring to the allegations contained in Paragraph IX of said Complaint, denies said allegations.

X.

Referring to the allegations contained in Paragraph X of said Complaint, admits that plaintiff claims to be a United States citizen pursuant to the provisions of Section 1993, Revised Statutes of the United States (48 Stat. 797) but alleges that the amendments to that act made by the acts of May, 1934, and the Nationality Act of 1940 (8 U.S.C. 601(g)) are inapplicable to plaintiff if, as alleged, he was born after 1924 and on or about June 24, 1927, which we deny.

Wherefore, this answering defendant prays judgment as follows:

1. That plaintiff's Complaint on file herein, be dismissed, and that plaintiff take nothing by virtue thereof;
2. For its costs of action incurred herein; and
3. For such other and further relief as the Court may deem just and proper in the premises.

WALTER S. BINNS,
United States Attorney;

CLYDE C. DOWNING,
Assistant U. S. Attorney,
Chief of Civil Division;

/s/ ARLINE MARTIN,
Assistant U. S. Attorney,
Attorneys for Defendant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed September 4, 1952. [9]

[Title of District Court and Cause.]

STIPULATION FOR SUBSTITUTION OF
HERBERT BROWNELL, JR., AS UNITED
STATES ATTORNEY GENERAL, AS
PARTY DEFENDANT

It Is Hereby Stipulated, pursuant to the provisions of Rule 25(d), Federal Rules of Civil Procedure, that Herbert Brownell, Jr., as United States Attorney General, be substituted as party defendant in the above-entitled case.

Dated: March 25th, 1953.

BRENNAN & CORNELL,

By /s/ BERNARD BRENNAN,
Attorneys for Plaintiff.

WALTER S. BINNS,
United States Attorney;

CLYDE C. DOWNING,
Assistant U. S. Attorney,
Chief, Civil Division;

/s/ HARRY R. TALAN,
Acting Asst. U. S. Attorney,
Attorneys for Defendant.

It Is So Ordered:

This 25th day of March, 1953.

/s/ HARRY C. WESTOVER,
United States District Judge.

[Endorsed]: Filed March 25, 1953. [11]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS
OF LAW

The above-entitled case having come on for trial on March 24, 1953, and having been tried on March 24 and 25, 1953, before the Honorable Harry C. Westover, Judge presiding, without a jury, the plaintiff appearing by his attorney, Bernard Brennan, and the defendant appearing by his attorneys, Walter S. Binns, United States Attorney, and Clyde C. Downing, Assistant United States Attorney, Chief, Civil Division, and Harry R. Talan, Acting Assistant United States Attorney, and evidence having been introduced on behalf of the plaintiff and the defendant and the Court having considered the same, and having heard the arguments of counsel and being fully advised in the premises, makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

I.

That Herbert Brownell, Jr., is the duly appointed and qualified and Acting [13] Attorney General of the United States of America, and as such is the head of the Department of Justice and in such capacity is the executive head of said United States Department of Justice of which the Immigration and Naturalization Service is a Department.

II.

That on or about February 15, 1952, a Board of Special Inquiry of said Immigration and Naturali-

zation Service ordered the plaintiff herein excluded from the United States on the ground that said plaintiff is not a citizen of the United States and was not in possession of a valid Immigration Visa, or of a Passport or documents in lieu of a Passport issued by the Country to which he owes allegiance.

III.

That Wong Ken Foon, alleged father of the plaintiff herein, was on or about December 27, 1920, admitted to the United States from China, as the son of a native and on or about January 3, 1921, was issued Certificate of Identity #32494 by the Immigration and Naturalization Service at San Francisco, California.

IV.

That the plaintiff herein claims permanent residence in the Southern District of California, Central Division.

V.

That the plaintiff herein was permitted to travel to the border of the United States by virtue of Travel Affidavit #4171, and was there, on or about January 18, 1952, taken into custody by the Immigration and Naturalization Service and held in exclusion status pending determination of his status by a Board of Special Inquiry.

VI.

That the Board of Special Inquiry of the Immigration and Naturalization Service, held at San Pedro, California, on February 15, 1952, determined

that plaintiff herein was not a citizen of the United States, and was not admissible to the United States as such. [14]

VII.

That on July 24, 1952, the Board of Immigration Appeals affirmed the decision that plaintiff herein was not a citizen and should be excluded from the United States; that thereafter, on August 12, 1952, plaintiff herein, filed this judicial proceeding to have his claim of citizenship determined by this Court.

VIII.

That the evidence adduced by the plaintiff herein has contained so many discrepancies and contradictions relating to subjects about which he should reasonably be expected to have some knowledge and recollection and the credibility of the testimony of the plaintiff has been so impeached that as a result the Court does not believe the testimony of the plaintiff herein, and there is not sufficient credible evidence to support plaintiff's claim that he is a United States citizen.

IX.

That the plaintiff herein was born in China, but that said plaintiff is not the son of Wong Ken Foon, and is not a citizen of the United States.

Conclusions of Law

I.

The jurisdiction of this Court in the above-entitled action is pursuant to the Act of October 14, 1940,

Ch. 876, Title I, subchapter 5, section 503, 54 Stat. 1171 (8 U.S.C. §903).

II.

The decision that plaintiff herein was not a citizen and should be excluded from the United States was affirmed by the Board of Immigration Appeals on July 24, 1952, and thereafter, on August 12, 1952, the plaintiff filed this judicial proceeding to have his claim of citizenship determined by this Court.

III.

The burden is on the plaintiff herein to establish his claim to United States citizenship and the said plaintiff has failed to sustain such burden, and the Court concludes that the plaintiff Wong Hing Goon is not a national or citizen of the United States and is not a son of Wong Ken Foon. [15]

IV.

Judgment should be entered in favor of the defendant and against the plaintiff in the above-entitled action, dismissing the plaintiff's complaint and cause of action and adjudging that said plaintiff is not a citizen of the United States and directing that said plaintiff be excluded from the United States and returned to China and that costs be awarded the defendant in this action.

Dated: This 8th day of April, 1953.

/s/ HARRY C. WESTOVER,
Judge, United States
District Court.

Approved as to form pursuant to Local Rule 7(a),
this 7th day of April, 1953.

By /s/ BERNARD BRENNAN,
Attorney for Plaintiff.

Received copy of the above Findings of Fact and
Conclusions of Law this 7th day of April, 1953.

By /s/ BERNARD BRENNAN,
Attorney for Plaintiff.

[Endorsed]: Filed April 8, 1953. [16]

In the United States District Court in and for the
Southern District of California, Central Divi-
sion

No. 14406-HW

WONG KEN FOON, as Guardian Ad Litem for
WONG HING GOON,
Plaintiff,

vs.

HERBERT BROWNELL, JR., as United States
Attorney General,
Defendant.

JUDGMENT

The above-entitled case having come on for trial on
March 24, 1953, and having been tried on March 24
and 25, 1953, before the Honorable Harry C. West-
over, Judge presiding, without a jury, the plaintiff ap-
pearing by his attorney, Bernard Brennan, and the

defendant appearing by his attorneys, Walter S. Binns, United States Attorney, Clyde C. Downing, Assistant United States Attorney, Chief, Civil Division, and Harry R. Talan, Acting Assistant United States Attorney, and the Court having considered and heard the arguments of counsel, and the Court having considered the same and the cause having been argued and submitted to the Court for its decision, and the Court having heretofore made and filed its Findings of Fact and Conclusions of Law and having ordered that a Judgment be entered in accordance therewith:

Now, Therefore, It Is Ordered, Adjudged and Decreed:

I.

Judgment is hereby entered for the defendant and against the plaintiff [17] in the above action and it is hereby adjudged that the complaint and cause of action shall be and the same are hereby dismissed and the plaintiff Wong Hing Goon is not a citizen or national of the United States.

It is hereby directed that said plaintiff be excluded from the United States and returned to China, and that the defendant recover his costs in this action. Costs taxed at \$20.00.

Dated: This 8th day of April, 1953.

/s/ HARRY C. WESTOVER,
Judge, United States District
Court.

Approved as to form pursuant to Local Rule 7 (a), this 7th day of April, 1953.

By /s/ BERNARD BRENNAN,
Attorney for Plaintiff.

Receipt of copy acknowledged.

[Endorsed]: Filed April 8, 1953.

Docketed and entered April 9, 1953. [18]

[Title of District Court and Cause.]

NOTICE OF APPEAL TO COURT OF
APPEALS UNDER RULE 73 (B)

Notice is Hereby Given that:

Wong Ken Foon, as Guardian Ad Litem for Wong Hing Goon, plaintiff above named, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the final judgment entered in this action on April 9, 1953.

BRENNAN & CORNELL,
By /s/ WM. E. CORNELL,
Attorneys for plaintiff.

[Endorsed]: Filed June 5, 1953. [19]

[Title of District Court and Cause.]

ORDER EXTENDING TIME ON APPEAL

Upon motion by counsel for plaintiff, and there being no objection from counsel for the defendant, and good cause appearing therefor;

It is Ordered that the time to file the record on appeal is hereby extended 90 days from the Notice of Appeal herein.

Dated: July 14, 1953.

/s/ HARRY C. WESTOVER,
United States District Judge.

[Endorsed]: Filed July 15, 1953. [20]

In the United States District Court, Southern
District of California, Central Division

No. 14406-HW

Honorable Harry C. Westover, Judge Presiding
WONG KEN FOON, as Guardian Ad Litem for
WONG HING GOON,

Plaintiff,

vs.

HERBERT BROWNELL, JR., as United States
Attorney General,

Defendant.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

Appearances:

For the Plaintiff:

BERNARD C. BRENNAN, ESQ.,
453 South Spring Street,
Los Angeles, California.

For the Defendant:

WALTER S. BINNS,
United States Attorney; by

HARRY R. TALAN,
Assistant United States Attorney.

March 24, 1953, 10:00 A.M.

The Clerk: Wong Ken Foon, as guardian ad litem for Wong Hing Goon, vs. James P. Mc-Granery, defendant, No. 14406, for trial.

Mr. Brennan: Ready for the plaintiff, your Honor.

Mr. Talan: Ready for the defendant.

The Court: We will make the usual order that all the witnesses will be excluded except the plaintiff.

Mr. Brennan: Your Honor, I am going to call as the first witness the father of the boy, so probably we can keep him in.

The Court: He can take the stand and all the rest of the witnesses will be excluded.

Swear the interpreter.

(Whereupon, Lily Chan was duly sworn to act as interpreter.)

Mr. Brennan: Will you take the stand, please?

Mr. Talan: At this time I would like to have entered as part of the record several stipulations we have entered into.

The Court: Just a minute. Has there been a stipulation relative to change of the defendant?

Mr. Brennan: I have a written stipulation I neglected to present to counsel, but during the recess we can do that, and then at the bottom of it we have the provision, "It is so ordered," and we will present that to your Honor during the [3*] morning

The Court: All right.

Mr. Talan: May we also have entered the record of the administrative proceeding, and a stipulation that it is authentic and a true and correct copy of the hearing that was reported therein?

Mr. Brennan: Yes, subject to our calling to the court's attention any discrepancies that might have

*Page numbering appearing at top of page of original Reporter's Transcript of Record.

occurred by reason of the interpreter's translation. We have no question about the authenticity of the record or its correctness as interpreted, and we are not raising any technicality on getting the record in, but we are not stipulating as to the accuracy of the transcript and of the interpreter's remarks.

Mr. Talan: That is accepted.

WONG KEN FOON

called as a witness by and on behalf of the plaintiff herein, having been first duly sworn, was examined and testified, through the interpreter, as follows:

The Clerk: State your name, please.

The Witness: My name is Wong Ken Foon.

Mr. Brennan: At this time I call to the court's attention that the government has furnished us with photostatic copies of two documents prepared by the inspector on the return of the father, both on the President Grant, one October [4] 6, 1927, and the other on the President Grant on 8/19/33. We would like to offer in evidence these photostatic copies in place of and to the same effect as if they were originals.

The Court: They may be received and marked Plaintiff's Exhibits 1 and 2.

Mr. Brennan: The first one is 1927.

The Clerk: So marked.

(The documents referred to were received in evidence and marked Plaintiff's Exhibits 1 and 2.)

(Testimony of Wong Ken Foon.)

Direct Examination

By Mr. Brennan:

Q. Where do you live?

A. I am living at 838 $\frac{1}{2}$ San Julian Street, Los Angeles.

Q. How long have you lived in Los Angeles County?

A. As long as I have been in the United States I have been living in the Los Angeles area.

Q. That is how long? When did you come to the United States? A. I came CR 9.

Q. That is the 9th year—

A. Ninth year of the Republic of China.

Mr. Brennan: Can you give us the American date on that?

The Interpreter: Yes. 1920 or early part of [5] 1921.

Mr. Brennan: Counsel, as I take it there is no question raised by the government as to this witness having been issued and holding a certificate of identity No. 32494 issued on January 3, 1921, by the immigration office in San Francisco, California?

Mr. Talan: That is conceded.

Q. (By Mr. Brennan): Where were you born?

A. In China.

Q. And where in China?

A. Toy Shan, Canton, China.

The Court: What village?

The Witness: Nam On Chuen.

The Interpreter: That is C-h-u-e-n or T-u-e-n.

(Testimony of Wong Ken Foon.)

Mr. Brennan: How do you spell the district phonetically as he gave it?

The Interpreter: N-a-m O-n——

Mr. Brennan: The district is what I am asking about.

The Interpreter: Nam On, Toy Shan, or Hsin Ning Sin.

Mr. Brennan: Could it be Hoy Sin?

The Interpreter: Yes, Hoy Sin.

Mr. Brennan: And what province?

The Interpreter: Kwangtung, or Canton, C-a-n-t-o-n, in the olden time.

Q. (By Mr. Brennan): When and where were you born?

A. I was born KS 34, 12th month, 10th day. [6]

Mr. Brennan: What is the English date for that?

The Interpreter: It is equivalent to January 1, 1909.

Q. (By Mr. Brennan): Who was your father?

A. According to phonetics, Wong Ah Hon or Hong.

Q. When you first came to the United States, how did you arrive?

A. I came by steamer to the San Francisco port.

Q. When did you arrive?

A. I remember that I left Hong Kong CR 9th month.

Q. That is the date——

Mr. Talan: What is that? Ninth month or ninth year?

The Interpreter: Excuse me. Ninth year.

(Testimony of Wong Ken Foon.)

Mr. Brennan: That is 1920 or early 1921, is that correct?

The Interpreter: That is correct.

Q. (By Mr. Brennan): How many trips have you made to China since? A. Twice, two times.

Q. On the first trip to China, when did you leave?

A. The first time I left was CR 15th year, American date, the 7th month.

The Interpreter: That would be July. CR 15 would be 1926 or early 1927.

The Court: What is the month?

The Interpreter: He said the seventh month of that year. [7]

The Court: That is July?

The Interpreter: Yes, July.

The Court: All right.

Mr. Brennan: The 15th was the CR for the year?

The Witness: Yes.

The Interpreter: That is July, 1926.

Mr. Brennan: Does he have the CR month, the Chinese month?

The Interpreter: No. He said seventh month, which is July, American seventh month.

Q. (By Mr. Brennan): How did you go?

A. By steamer, President Taft.

Q. Do you recall when you returned?

A. I returned CR 16th, either the seventh or the eighth month, from Hong Kong, according to Chinese calendar.

The Interpreter: The seventh or eighth month

(Testimony of Wong Ken Foon.)

would be the end of July, from July 29 until September 25. That would embrace the seventh and eighth months in the Chinese calendar.

The Court: Just a minute. What year?

The Interpreter: 1927.

Q. (By Mr. Brennan): How did you return, by what transportation? A. By steamer.

Q. Do you know the name of the steamer?

A. President Grant. [8]

Q. When did you leave for the second trip?

A. CR 21, about July, American date, July month.

The Interpreter: CR 21 year would be 1932 or early 1933.

Q. (By Mr. Brennan): From where did you leave? A. From San Pedro.

Q. By what means of transportation did you go?

A. By steamer.

Q. Do you remember the name of the steamer?

A. President McKinley.

Q. When did you return?

A. About CR 22 year, Chinese month seventh or eighth month.

The Interpreter: CR 22 would be 1933 or 1934.

Mr. Brennan: What month?

The Interpreter: Seventh and eighth month would be equivalent to our—

Mr. Brennan: That is the same as July to September that you gave before?

The Interpreter: In this year it would be August

(Testimony of Wong Ken Foon.)

21 until October 18th, would be within the two months.

Q. (By Mr. Brennan): How did you return?

A. By steamer.

Q. Do you remember the name of the steamer?

A. President Grant.

Mr. Brennan: At this time may we amend to conform to [9] proof on page 2, lines 13 and 14, the return shown by City of Los Angeles in the records, and the witness saying that it is the President Grant.

The Court: It may be amended.

Mr. Brennan: By interlineation, your Honor?

The Court: Yes.

Q. (By Mr. Brennan): When you were in China on your first trip, where did you go in China?

A. To the village.

Q. Is that the Nam On Village where you were born?

A. Yes.

Q. Did any event occur there on that trip?

A. The first time?

Q. The first trip?

A. You mean what I saw there?

Q. Did you get married on that trip?

A. Yes. That is the time when I was married.

Q. To whom were you married?

A. Ng Shee.

Q. On what date were you married?

A. CR 15-8-22.

Mr. Brennan: What is that in the American calendar?

The Interpreter: September 28, 1926.

(Testimony of Wong Ken Foon.)

Q. (By Mr. Brennan): Do you know whether there is any record available of that marriage? [10]

A. At that time we didn't have any record of the marriage.

Q. Did you have any children issue of that marriage? A. Yes.

Q. When was the first child born?

A. Chinese calendar, CR 22-5-25.

Mr. Brennan: What year is that?

The Interpreter: It is July 17, 1933.

Mr. Brennan: There must be some mistake.

The Court: I thought there was a child born on this first trip. How many children have you?

The Witness: The first child was born CR 16.

The Court: Let's get the rest of the CR 16. 16 what?

The Witness: CR 16-5-25.

The Interpreter: That would be June 24, 1927.

Q. (By Mr. Brennan): Where was that child born? A. Nam On Village.

Q. That is the same village where you were born?

A. Yes.

Q. Was it a boy or a girl? A. A boy.

Q. What was the boy's name?

A. Wong Hing Goon.

The Court: Is that the plaintiff here?

The Witness: Yes, your Honor. [11]

Mr. Brennan: Will you just stand up?

Q. Is that the boy that was born issue of that marriage? A. Yes, he is the boy.

(Testimony of Wong Ken Foon.)

Mr. Brennan: We have identified, for the purpose of the record, the boy sitting at counsel table who is the plaintiff in the action.

Q. How old was the boy when you left China?

A. The first time?

Q. Yes. A. One or two months old.

Q. Where did you leave him?

A. At the home village.

Q. In whose house? A. Our home.

Q. Is that the same home where you were born?

A. Same house.

Q. When you left the village to return to the United States, by what port did you leave?

A. You mean from China?

Q. That's right. A. Hong Kong.

Q. Approximately how long were you in Hong Kong before you left Hong Kong?

A. Two or three weeks. [12]

Q. When you returned on the second trip, did you go to the village? A. Yes.

Q. Is that the village where you were born?

A. Yes.

Q. How long did you remain in the village on that trip? A. About 13 months or so.

Q. Did you see your son on that trip?

A. Yes.

Q. We are referring to the plaintiff in this action, the boy that stood up. You saw him on that trip? A. Yes.

Q. We are referring to the plaintiff in this ac-

(Testimony of Wong Ken Foon.)

tion, the boy that stood up. You saw him on that trip, did you? A. Yes.

Q. How old was he approximately at the time you arrived at the village?

A. About five or six years old.

Q. Where was he when you got to the village? Where was he living? A. Living at home.

Q. Where was your wife at that time?

A. Also at home.

Q. At that time you had just the one boy, that is the only child you had, is that correct?

A. You mean the time immediately after my arrival?

Q. That's right, when you got there.

A. Yes. [13]

Q. During the time that you were there, where did the boy live that 13 months?

A. The same house I lived in.

Q. When you left, was he still living in the house with his mother? A. Yes.

Q. During your second trip to China, did you have other children born of your marriage?

A. Yes, one.

Q. When was he born?

A. CR 22-4th month, 28th day.

Mr. Brennan: Is that the July 17, 1933, that you transcribed for us before?

The Interpreter: CR 22, 4th month, 28th day, would be May 22, 1933.

Q. (By Mr. Brennan): Was that a son?

(Testimony of Wong Ken Foon.)

Q. How old was that son when you left the village?

A. About three to two months old.

Q. Have you had any other children born issue of that marriage? A. No.

Q. Have you had any daughters born issue of that marriage? A. No.

Q. I show you Plaintiff's Exhibit 1 and ask you if you [14] signed the original of this document on October 6, 1927? A. That is my signature.

Q. Did you furnish the name of your wife as Ng Shee and the date of the marriage as CR 15-8-22?

A. Yes.

Q. Did you furnish at that time the answer to the question, "How many children have you ever had"? Indicating one son? Did you furnish that information? A. Yes.

Q. Did you give the name of Wong Hing Goon, age 1, sex M, and the date of birth, CR 16-5-20, location China, and "No others"? Did you furnish that information to the immigration office?

A. It was not age one year old. The one is over a month old.

Q. It says just "1" under age, but you furnished the figure 1 for the immigration office, did you?

A. I meant over one month.

Q. Referring to Plaintiff's Exhibit 2, dated 8-19-53, I will ask you if this is your signature on the bottom of that document.

A. That is my signature.

Q. You signed that where?

(Testimony of Wong Ken Foon.)

A. I suppose at San Francisco immigration.

Q. On that occasion, did you furnish them the information [15] that you were married once and your wife is Ng Shee, married her CR 15-8-21, natural feet, now living in Nam On Village, S. N. D.? Did you give them that information? A. Yes.

Q. Did you furnish them also under the name of children, the number that you have had, the figure "2," and the number of sons as "2," and the number of daughters an "None"? Did you give them that information?

A. Yes. All together, two boys.

Q. Did you tell them your wife was pregnant one month at the time you were in San Francisco and give them this information?

A. I thought she was pregnant at that time.

Q. So that you did furnish them that information? A. Yes.

Q. Did you furnish them the information under the names of children, "Wong Hing Goon, age 7, sex M, birthdate CR 15-5-25, location Nam On Village," and "Wong Hing Gin, one year, M, CR 22-4-28, Nam On Village"?

A. It should be Gim. Referring to the one year, according to the Chinese, the first year of the child, whether a full year or not, is called one year old.

Q. So that this "1" you gave them was the Chinese age, is that correct?

A. According to Chinese, it is one year, no matter how [16] many months is in the year.

(Testimony of Wong Ken Foon.)

Q. When did you next see your son after you left the village in 1933?

The Court: You say, "your son." You mean the plaintiff?

Mr. Brennan: Yes.

Q. When did you next see the plaintiff after leaving the village in 1933?

A. Until he arrived in the United States.

Q. Approximately when was that that he arrived in the United States?

A. Last year, January, he arrived into the United States.

Mr. Brennan: Counsel, are you prepared to stipulate that the American Consul issued his travel papers to come to this country without raising any objections, and it was after he arrived in the United States that the first objections were raised?

Mr. Talan: I am prepared to so stipulate.

Mr. Brennan: Do you so stipulate?

Mr. Talan: I do.

Mr. Brennan: May we have these two photographs marked as separate exhibits?

The Court: They may be marked Plaintiff's Exhibits 3 and 4.

The Clerk: So marked, Plaintiff's 3 and 4 for identification, [17] your Honor.

(The photographs referred to were marked Plaintiff's Exhibits 3 and 4 for identification.)

Mr. Brennan: I have already shown these to counsel, your Honor.

(Testimony of Wong Ken Foon.)

Q. (By Mr. Brennan): I show you Plaintiff's Exhibit 3 for identification and ask you if you have seen that photograph before? A. Yes.

Q. Where did you first see it?

A. I took it and brought it with me.

Q. You took it from where? A. Hoy Shan.

Q. When, which trip?

A. About a month or so after my marriage.

Q. That was on your first trip? A. Yes.

Q. Do you recognize the people in the picture?

A. Yes.

Q. Who is the one on the left in the picture?

A. My wife's relation.

Q. Do you know her name or his name?

A. Ng Gin.

Q. Who is the one in the middle?

A. That is my wife. [18]

Q. What is her name?

A. Ng Shee or Ng Uey.

Q. Who is the one on the right?

A. That is I.

Mr. Brennan: I have identified them from left to right in the photograph for the purpose of the record.

Q. Where was this picture taken?

A. At Toy Shan.

Q. That is at the village, is that right?

A. Yes.

Mr. Brennan: May this be received in evidence, your Honor?

The Court: It may be received.

(Testimony of Wong Ken Foon.)

Mr. Talan: I have no objection, your Honor, to the offer except I don't think it has much probative value to establish the relationship of this plaintiff.

The Court: It may be received and marked Plaintiff's Exhibit 3.

The Clerk: So marked.

(The photograph referred to was received in evidence and marked Plaintiff's Exhibit No. 3.)

Q. (By Mr. Brennan): I show you Plaintiff's Exhibit 4 for identification and ask you if you have seen that photograph before? A. Yes. [19]

Q. When did you first see that photograph?

A. In America.

Q. Where? A. At Los Angeles.

Q. When did you first see it?

A. Shortly after the war was over.

Q. How did you get the picture?

A. My wife sent it to me.

Q. Do you have the letter or envelope or other wrapping that accompanied the picture?

A. I may have it, but it is so long ago I may have discarded it. I am not sure.

Q. Will you make a search for it this noon or tonight when you go home and see if you can find it?

A. Yes.

Q. Do you recognize any of the people in that picture? A. Yes.

Q. Do you know of your own knowledge who the figure is on the left of the picture as you look at it?

(Testimony of Wong Ken Foon.)

A. My second son, Wong Hing Gim.

Q. How do you know that is your second son?

A. My wife wrote and told me about it and the picture tells me so.

Q. Did you ever see him after he was one or two or three months old? [20] A. No.

Q. The person in the middle, who is that?

A. My wife.

Q. Do you recognize her of your own knowledge?

A. Yes.

Q. The person on the right as you look at the picture, who is that? A. My older son.

The Court: You say the older son?

The Witness: Yes.

Q. (By Mr. Brennan): Is that the plaintiff that is sitting in court at the counsel table that I just referred to? A. The same person.

Q. When you received this picture, did you recognize the boy as the boy you last saw when he was seven years old? A. I recognize him to be.

Mr. Brennan: May this be received in evidence, your Honor?

Mr. Talan: Same comment, your Honor.

The Court: Same objection and same ruling. It may be received in evidence.

The Clerk: Plaintiff's Exhibit 4 in evidence, your Honor.

(The photograph referred to was received in evidence and marked Plaintiff's Exhibit [21] No. 4.)

(Testimony of Wong Ken Foon.)

The Court: You say you got this picture after the war. About when was that, how many years ago was that?

The Witness: About six or seven years ago.

The Court: You have had this picture in your possession for the past six or seven years?

The Witness: Yes, on top of my table.

Mr. Brennan: That's all at this time of this witness, your Honor. Do you wish to reserve cross-examination?

Mr. Talan: Well, I have a few questions I would like to ask now.

Mr. Brannan: All right.

Cross-Examination

By Mr. Talan:

Q. What are the names of your father and mother?

A. My father's name is Wong Ah Hon and my mother's name is Lee Shee.

Q. Are they both living at the present time?

A. My father died. My mother is living.

Q. When did your father die?

A. About CR 37.

The Interpreter: That would be 1948 or early 1949.

Mr. Brennan: Is that the date of the death of the father?

Mr. Talan: Yes. [22]

Q. At the time of your parents' marriage, where did they live in China? A. Nam On Village.

(Testimony of Wong Ken Foon.)

Q. Does your mother still live in Nam On Village?
A. No.

Q. Where does she live now?

A. According to phonetics, Ging Sen Village, also in the district of Hoy Shan.

Q. How long has she been living in Ging Sen Village?
A. Since CR 23.

The Interpreter: CR 23 would be 1934 or early 1935.

Q. (By Mr. Talan): Did both your father and mother leave Nam On Village in 1934 or 1935?

A. Yes.

Q. While your parents were living in Nam On Village, did they live in the same house that you were born in?
A. Yes.

Q. While they were living in that house, was the plaintiff also at any time living in the house with them?
A. Yes.

Mr. Talan: Your Honor, I would like to discontinue my cross-examination of this witness at this time and reserve the right to recall him later.

Mr. Brennan: No objection.

The Court: We will take the morning recess now. We will [23] recess until 10 minutes after 11:00. Have your next witness on the stand at that time.

(Recess.)

Mr. Brennan: I will call at this time Wong Hing Goon.

WONG HING GOON

the plaintiff herein, called as a witness by and in his own behalf, having been first duly sworn, was examined and testified, through the interpreter, as follows:

The Clerk: Will you please state your name?

The Witness: Wong Hing Goon.

Direct Examination

By Mr. Brennan:

Q. Where are you living now?

A. I am living at 662 Castellar Street, Los Angeles.

Q. Where were you born? A. At home.

Q. Where is home? A. Nam On Village.

Q. In what district? A. Hoy Shan.

Q. What province?

A. Kwangtung Province.

Q. That is the same as Canton?

A. Yes. [24]

Q. When were you born?

A. Fifth month, 25th day, CR 16.

The Interpreter: June 24, 1927.

Q. (By Mr. Brennan): Now, when did you leave China? A. CR 37.

Mr. Brennan: What year is that?

The Interpreter: 37th year would be 1948 or early 1949.

The Court: Was the question, "When did you leave China"?

Mr. Brennan: Yes.

(Testimony of Wong Hing Goon.)

Q. Is that when you left China to come to the United States, or when you left the village?

A. Left the village.

Q. Where did you go after you left the village?

A. To Hong Kong.

Q. When did you leave Hong Kong?

A. 1951.

The Court: Where did you go when you left Hong Kong?

The Witness: You mean totally leave Hong Kong?

Mr. Brennan: Yes.

The Witness: 1952, I left Hong Kong for the United States.

Mr. Talan: Did he give that date in English?

The Interpreter: Yes, 1952, he said.

The Court: What is the month?

The Witness: After I arrive here several days, Chinese [25] New Year was due.

Mr. Talan: Will you translate that date?

The Witness: I think about the first month, the 15th day, is the American date, first month, 15th day, may be January 15.

Q. (By Mr. Brennan): How did you come to the United States? A. By airplane.

Q. To what port did you come?

A. You mean the way I pass through or the way I ride?

Q. When your plane came to the United States, what town did you come to?

A. Los Angeles airport.

(Testimony of Wong Hing Goon.)

Q. Did you meet anyone there?

A. The immigration was there.

Q. After you came to the United States, did you see Wong Ken Foon? A. Yes.

Q. Where was he when you first saw him?

A. When I got off the plane.

Q. That was at the International Airport, is that right?

A. I don't know the name of the airport.

Q. But it was when you came to Los Angeles, first came here at the airport, is that right? [26]

A. Yes, it is the Los Angeles airport.

Q. Do you remember seeing him any time before that in China? A. In the village.

Q. About how old were you when you saw him in China? A. About six years old, I think.

Q. When you were about six years old and you saw this same person in China, where were you?

A. You mean the first trip or the second time?

Q. When you were six or seven years old when you saw him, where was it that you saw him?

A. It was CR 21 year at that time when I was about six years old. I saw him then.

Q. Where was that?

A. At the village home.

Q. Is that the same village home where you were born? A. Yes.

Q. Is that the same village home you continued to live in until you left the village in 1947 or 1948 for Hong Kong? A. Yes.

Q. Who did you live with at that time?

(Testimony of Wong Hing Goon.)

A. You mean the family, our family?

Q. Who else was in the house when you were six or seven years old when this party was there?

A. My mother and my younger brother. [27]

Q. When Wong Ken Foon first came there, was your younger brother born at that time?

The Interpreter: First came to the village?

Q. (By Mr. Brennan): When you were six or seven years old, when your father first came to the village, at that time was your younger brother born at that time? A. Until in 22, CR 22.

Q. Was your younger brother born before Wong Ken Foon left, when you were six or seven years of age? A. Yes.

Q. Did you know or did anybody tell you who Wong Ken Foon was when he was there?

A. My mother.

Q. What did she tell you? Who did she tell you he was? A. She said that this is my father.

Q. About how long was he there on that occasion when you were six or seven years old?

A. Over 10 months.

Q. Where did he live during that time?

A. The same house.

Q. Then when he left, you didn't see him again until you came to this country, is that right?

A. That's right.

Q. I will show you Plaintiff's Exhibit No. 3 and ask you if you have ever seen that picture [28] before. A. Yes.

Q. Where did you see the picture last?

(Testimony of Wong Hing Goon.)

A. At my village home.

Q. Is this the picture or one similar to that that you saw? A. Similar to this.

Q. Where was the picture when you saw it?

A. It was hanging on the wall.

Q. Was it similar to this or the exact picture?

A. It isn't this one. The same image of this one.

Q. How old were you when you first remember seeing the picture at your house?

A. In my teens, I think.

Q. Where was it at that time when you first saw it? A. It was hung up at home.

Q. When you left the village in 1947 or 1948, when you went down to Hong Kong, where was the picture then? A. Same place.

Q. Was it there all the time from when you first remember seeing it until you left? Was it in the same place? A. That's right.

Q. Did anybody ever tell you who was in that picture, who those people were?

A. This right is my father, I was told, the center one my mother, and that is a relation. [29]

Q. Who told you that? A. My mother.

Q. When you saw Wong Ken Foon when you were six or seven years of age, did you recognize him as the man who is in the picture, Plaintiff's Exhibit 3? A. Same.

Q. And when you saw Wong Ken Foon at the airport, did you recognize who he was?

A. Through this picture, I recognize him, through the image of this picture.

(Testimony of Wong Hing Goon.)

Q. Did you recognize him as the same person you saw when you were six or seven years of age?

A. Same man.

Q. Have you known him as your father from the time you were six or seven years of age when you first met him up until the present time?

A. Yes.

Q. What is your mother's name?

A. Ng Shee.

Q. Where is she now?

A. Now she is living in Hong Kong.

Q. When did she go to Hong Kong?

A. CR 37, about the 8th month.

The Interpreter: CR 37 would be 1948; 8th month would be September or October. [30]

Q. (By Mr. Brennan): Was that when you went to Hong Kong? A. No.

Q. Did she go to Hong Kong before you went or after you did? A. I was ahead of her.

Q. Then did she continue to stay in Hong Kong with you until you left to come to the United States?

A. You mean the early part or the latter part?

Q. Did she go back to the village after she got to Hong Kong? A. No. She never went back.

Q. Then she stayed in Hong Kong until you left to come by plane to the United States, is that right? A. Yes.

The Court: May I ask a question?

Mr. Brennan: Yes, your Honor, certainly.

(Testimony of Wong Hing Goon.)

The Court: How long was your mother in Hong Kong before you left for the United States?

The Witness: You mean whether she live with us or she live in Hong Kong?

The Court: In Hong Kong?

The Witness: I think about two years.

The Court: During this two-year period, was your younger brother with your mama? [31]

The Witness: Yes.

The Court: Did your mother and younger brother live in the same house with you in Hong Kong?

The Witness: Not in the beginning.

The Court: How long did you live separate from your mother in Hong Kong?

The Witness: 1950, we live together, from 1950.

The Court: From 1950. You said your mother went to Hong Kong in 1948, September or October. Did she live separate from you in Hong Kong for approximately two years?

The Witness: Yes, separately.

The Court: Where did you live when you were in Hong Kong?

The Witness: I live at my father's friend's home.

The Court: You lived in your father's friend's home until your mother came to Hong Kong, and then for approximately two years, is that right?

The Witness: Yes.

The Court: When your mother commenced to

(Testimony of Wong Hing Goon.)

live with you, did your younger brother also live with you?

The Witness: Yes.

The Court: And where did you live?

The Witness: At that time four of us live together. After my marriage, my wife live with us, too.

The Court: Where? [32]

The Witness: Name is the Morlor Har Street, No. 54, third floor, Hong Kong.

The Court: Where did your mother live during the two years she didn't live with you?

The Witness: She was living in Kowloon.

The Interpreter: Just across the bay from Hong Kong.

The Court: Did you get married while you were in Hong Kong?

The Witness: Yes.

The Court: All right.

Q. (By Mr. Brennan): Up until the time you left the village to go to Hong Kong, did your mother and you live together in the same house all the time?

A. Yes.

Q. When the person you referred to as your father, Wong Ken Foon, came to the village when you were six or seven years old, where did he live?

A. Same house.

Q. That was true of all the time he was there, the months he was there, is that right?

A. Yes, same house.

Q. I show you Plaintiff's Exhibit 4 and ask you

(Testimony of Wong Hing Goon.)

if you know who is in that picture? A. Yes.

Q. Who is on the left as you look at the photograph? [33] A. My younger brother.

Q. Who is in the middle? A. My mother.

Q. Who is on the right as you look at the picture?

A. This is I.

Q. Referring to Plaintiff's Exhibit—

The Court: Before we leave this other picture, when was that photograph taken?

The Witness: After the war.

The Court: How many years ago?

The Witness: Six or seven or eight years.

The Court: Where was it taken?

The Witness: At Hoy Shan.

The Court: Is that Hoy Shan Village or Hoy Shan Province?

The Witness: Hoy Shan is a little town just like over here. In China, sort of a market place.

The Court: After the picture was taken, did you get any prints of the picture?

The Witness: One at home. We have one at home.

The Court: How old were you when that picture was taken?

The Witness: About 18.

The Court: Did you send that picture to anyone or send a picture like that to anyone?

The Witness: Not me.

The Court: All right. [34]

Q. (By Mr. Brennan): Is the woman shown in

(Testimony of Wong Hing Goon.)

Plaintiff's Exhibit 3 and the woman shown in Plaintiff's Exhibit 4 the same woman?

A. Same person.

Q. That is your mother in both cases, is that right? A. Yes.

The Court: Did you ever see this picture in China?

The Witness: Yes.

The Court: Where?

The Witness: At my home.

The Court: Was there more than one picture?

The Witness: At home, we only have one copy hung on a wall.

The Court: It is hung on a wall?

The Witness: Yes.

Mr. Brennan: May the record show his Honor was showing the witness Plaintiff's Exhibit 3?

I believe that's all, your Honor, of this witness at this time.

Cross-Examination

By Mr. Talan:

Q. Where were you born?

A. Nam On Village, Toy Shan, Kwangtung.

Q. Were you born in a house in that [35] village? A. I was born at home.

Q. Just where in that village was your home?

A. You mean to say what lot, or something like that?

Q. Yes. Will you describe where your house was located in that village?

(Testimony of Wong Hing Goon.)

A. 5-6-5, meaning section 5, row 6, and the fifth house.

Q. In other words, your house was the——

A. Sixth row, the fifth house.

Q. Fifth house in the sixth row? A. Yes.

Q. That is counting from which direction as far as the rows are concerned? A. From the west.

Q. Sixth row from the west and the fifth house in the sixth row?

A. The fifth house on the sixth row.

The Court: May I ask a question? How many houses were in this village?

The Witness: About 40-something.

The Court: 40 houses?

The Witness: Yes.

The Court: How many rows were there?

The Witness: About nine rows.

The Court: Was there a head or tail to the village? [36]

The Witness: The head of the village is from the west, on the west.

The Court: On the west side is the head of the village, is that right?

The Witness: Yes.

Q. (By Mr. Talan): As long as you can remember, did you live in the same house until you left the village some time in 1948? A. Yes.

Q. As far as you can recall, who else lived in the house with you there in Nam On Village?

A. As far as I remember, my grandfolks used to

(Testimony of Wong Hing Goon.)

live there, my mother and father lived there, and my brother and myself.

Q. Did anybody else ever live in this same house while you were living there?

A. My grandfolks were there.

Q. Any other relatives besides your grandparents?

A. No.

Q. Will you state who lived in the house with you from the time you were born until the time you left the village?

A. The same persons that I mentioned.

Q. Will you repeat the relationship?

A. My grandparents, my mother, my younger brother and myself. [37]

Q. And no one else?

A. And my father, too.

Q. Did an aunt and her two children ever live in the same house with you?

The Interpreter: I have to ask mother's side or father's side? Then I can use the right word.

Mr. Talan: Father's side.

The Witness: Not that I remember, not that I recall.

Mr. Talan: Will you mark this Defendant's Exhibit A for identification?

The Court: It may be marked Defendant's Exhibit A for identification only.

The Clerk: So marked, Defendant's Exhibit A for identification.

(The exhibit referred to was marked Defendant's Exhibit A for identification.)

(Testimony of Wong Hing Goon.)

Q. (By Mr. Talan): Referring to Defendant's Exhibit A for identification, which is a copy of a transcript of a hearing held before a Board of Special Inquiry on February 15, 1952, at San Pedro, do you remember being asked at that time with respect to the house in the village, the Nam On Village where you lived, the following question:

“Q. Who occupied that house when you last lived there”? [38]

And giving the following answer:

“A. My younger brother, Wong Hing Gin, my mother and I occupied the big door side. My No. 1 uncle Wong Ken Fook's wife, Lee Shee, and their son, Wong Soo Ting, and their daughter, Wong Shew Fung, occupied the small-door side.”

A. Yes.

Q. Is your answer yes, you did make this statement? A. Yes.

Q. This statement appears on page 5 of Defendant's Exhibit A for identification.

Directing your attention again to Defendant's Exhibit A for identification, I again ask you with reference to the——

Mr. Brennan: What page, counsel?

Mr. Talan: Page 6.

Q. I again ask you whether at the time of this hearing before the Board of Special Inquiry in San Pedro on February 15, 1952, you were asked the following question:

“Q. Who is now living in your native house in Nam On Village”?

(Testimony of Wong Hing Goon.)

To which you gave the following answer:

“A. The big-door side is now vacant. The small-door side is still occupied by my aunt, Lee Shee, and her two children.”

A. Are you referring to the house I was living in? [39]

Mr. Talan: The question asked about his native house.

The Witness: I was confused with the question at that time.

The Court: How were you confused?

The Witness: I don't understand the question.

The Court: May I ask a question. This house in which you lived, it had a big door and a small door?

The Witness: Yes.

The Court: Was there a dividing line or a partition between the side with the big door and the side with the small door?

The Witness: There is no partition, but each side has his own bedroom.

The Court: When you talk about the house in which you lived, did you talk about the whole house, both sides of the house?

The Witness: As far as I know, in the olden time my grandfolks lived in that house, but no other person lived in that house.

The court: Which is the true statement? Was your aunt living in the house or not?

The Witness: No.

The Court: Your testimony is now nobody lived in the house except your grandfather, your grand-

(Testimony of Wong Hing Goon.)

mother, your mother, and your father and you and your brother? [40]

The Witness: The truth is that the grandfolks and my parents and my brother and I lived in that house only.

The Court: Well, I notice it's 12:00 o'clock. I assume you are going to another part of the transcript?

Mr. Talan: Yes, I am, your Honor.

The Court: We will recess now until 2:00 o'clock this afternoon.

(Whereupon, an adjournment was taken to 2:00 p.m.) [41]

March 24, 1953—2:00 o'Clock P.M.

The Court: Proceed.

WONG HING GOON

the witness on the stand at the time of adjournment, having been previously duly sworn, resumed the stand and testified, through the interpreter, further as follows:

Cross-Examination

(Continued)

By Mr. Talan:

Q. Referring to page 6 of Defendant's Exhibit A for identification, which is a transcript of the hearing before the Board of Special Inquiry of the Immigration Service held on February 15, 1952, in San Pedro, California, I ask whether you made this

(Testimony of Wong Hing Goon.)

statement under oath in response to the following question:

“Q. Has Lee Shee, the wife of Wong Ken Fook, always lived in your house ever since you can remember? A. Yes.”

A. The daughter and the son lived at our side, but Lee Shee lived in her place.

Q. Did the children of Lee Shee live in the same house where you were living?

A. On the big door side. [42]

Q. Where did their mother live?

A. In the house of the right big door, the right of the big door.

Q. Was this in the same house where you were living?

A. Not in the house, but on the other side, the right side of the big door.

Q. Who lived on the other side of the big door?

A. My aunty.

Q. Did she live there by herself?

A. She lived there because my uncle is over here.

Q. But she lived there without her children? Were her children in the same house where you were living?

A. Sometimes our side, sometimes their side.

Q. Was this all in the same house? Is this the same house where you were living?

A. Not always on our side.

Q. Will you again name who lived in the house with you during all the time that you lived in Nam

(Testimony of Wong Hing Goon.)

On Village?

A. You mean the permanent residents?

Q. All members of the same household.

A. For permanent residents is my papa, my mama, and my brother.

Q. Who else lived there from time to time?

A. You mean the relations and relatives?

Q. Any other person. [43] A. No.

Q. Will you explain that answer?

A. Formerly my grandfolks and our immediate family, and recently, later on, the children of my uncle.

Q. Can you give us some dates as to when these persons were living in the house with you?

A. After I left for Hong Kong, my mother told me about them coming over.

Q. Prior to the time you left for Hong Kong, when you were still living in the house in Nam On Village? A. Yes.

Q. In other words, no relatives other than your grandparents, your mother, your father and your brother, ever lived in the same house with you in Nam On Village? A. Yes.

Q. Yes, nobody else lived in the same house?

The Interpreter: No one lived in the same house.

Q. (By Mr. Talan): I direct your attention to page 6 of Defendant's Exhibit A for identification and ask whether or not you made the following statements under oath in response to this question:

“Q. Were her two children, Wong Shew Fung

(Testimony of Wong Hing Goon.)

and Wong Soo Ting, both born in the same house in which you were born?"

A. They didn't say Wong Soo Ting. The name is not [44] right. Wong Shew Ming and Wong Shew Ching are the two names.

Q. Did you give that answer to that question?

A. I meant that they were both in Nam On Village, so I said yes.

Q. Referring to page 6 of Defendant's Exhibit A for identification, I ask you whether you made this statement under oath in response to this question:

"Q. Have Wong Soo Ting and Wong Shew Fung always lived in the same house with you ever since you can remember? A. Yes."

A. At times they do come over to my place and be with us.

Q. Why did you say they always lived in the same house?

A. I assumed that they meant once in a while.

Q. I direct your attention to page 10, Exhibit No. 1, of Exhibit A, and ask whether you made the following statement under oath in response to this question:

"Q. Give the family of your first uncle, Wong Ging Fook, and where they live now."

To which you answered:

"A. His wife is Lee Shee. They have two sons, one daughter. The oldest son is Wong Soo Min. During the second World War he went to Chi Kaing Province and has never returned. The [45] younger

(Testimony of Wong Hing Goon.)

son is Wong Soo Ting, the daughter is named Wong Shew Fung. They were born in Nam On Village and are still living there; that is, with the exception of the oldest boy; they live in the same house we live in, the fifth house, sixth row."

A. Yes.

Q. During the time you were living in Nam On Village, who lived in the fifth house, fifth row in the village?

A. Ging Fook.

Q. What's that? A. Wong Ging Fook.

Q. Who is Wong Ging Fook?

A. My older uncle.

Q. Who lived there in the house with him?

A. His wife.

Q. Anybody else?

A. Second son and daughter.

Q. Did the second son and daughter live in any other house in the village?

A. They have lived in our house.

Q. During what years did they live in your house?

A. What year? I don't remember. Whenever they felt like coming over to be with us and to have company.

Q. Did they sleep over there? [46]

A. Sometimes.

Q. Was that a permanent proposition or would they just come over for a night or so and stay temporarily?

A. Not permanent nature.

Q. I show you Exhibit 9, which is attached to

(Testimony of Wong Hing Goon.)

Defendant's Exhibit A for identification, and ask you——

Mr. Brennan: I didn't get the question.

Mr. Talan: It is attached to it. It is Exhibit 9.

Q. I ask you whether you have ever seen that before? A. Yes.

Q. Will you tell us what that is?

A. I drew this.

Q. Can you tell us when you drew this?

A. I think at San Pedro immigration.

Q. Was that somewhere around January, 1952?

A. About that time.

Q. Will you tell us what that is supposed to represent? A. The description of Nam On Tuen.

Q. Will you tell us how many rows of houses appear in this diagram? A. Nine.

Q. Wouldn't you say there are 10 rows of houses there?

A. If you count this space here, then it is 10, but if you count the unit of the structure like this—if you count [47] from here, it is nine.

Q. Isn't this a row of houses in the village?

A. According to the alleys, there are nine. There are nine alleys.

Q. How many rows of houses are there?

A. If you include this single one, it is 10.

Q. It is in a row other than the others, isn't it?

A. Yes. It is a small house here.

Q. You would say, then, there are 10 rows of houses in Nam On Village?

A. If you include this little one, it is 10.

(Testimony of Wong Hing Goon.)

Q. Is there any reason why the little house should be excluded? It is part of the village, is it not?

A. If you add it, it is 10. I put 10 here.

Q. But earlier today you testified there are only nine rows of houses?

A. I am talking about the alleys in between the houses, one, two, three——

Q. It isn't your understanding when houses are referred to that alleys are meant, is it?

The Interpreter: The two words are very similar in Chinese.

The Court: I'm sorry. I am supposed to hear this. You will have to speak louder. You are not just talking to the attorney. What was it? [48]

Mr. Talan: I asked whether or not when he refers to houses, does he take that to mean alleys?

The Witness: You asked me about the rows and columns and I answer you according to the alleys that are in between.

The Interpreter: The two words are very similar.

Mr. Talan: Who lived in this house? I am now pointing to row 5, fifth row appearing on Exhibit 9 attached to Defendant's Exhibit A for identification.

The Witness: This one, you mean?

Q. (By Mr. Talan): Yes.

A. Whose house is it?

Q. Who lived there? A. Wong Ken Fook.

Q. Who is Wong Ken Fook?

(Testimony of Wong Hing Goon.)

A. My uncle, paternal uncle.

Q. Pointing to the fourth house in row 6 in Exhibit 9 attached to Defendant's Exhibit A for identification, I asked you who lived in that house while you were living in the village of Nam On?

A. Madam Sai Ho.

The Court: May I ask a question?

Mr. Poy: Your Honor, the defendant didn't say madam. He said Aunty Sai Ho.

The Interpreter: It could be both ways.

Mr. Brennan: Who is this, your Honor? [49]

Mr. Talan: This is Mr. Poy, an interpreter, and he is up here to assist us. He couldn't get here any sooner.

The Court: He is an interpreter for the immigration authorities. May I ask a question here? What is the difference between the diagrams where you have got one division and where you have got three divisions? What's the difference?

The Witness: Each square represents one unit of a house.

The Court: One unit of a house. Would you call that two houses or one house?

The Witness: Two houses.

The Court: You call it two houses.

The Witness: Call it two houses, and this one is four.

The Court: And this up here divided into four parts, you call that four houses?

The Witness: That's right.

(Testimony of Wong Hing Goon.)

The Court: Is there any alley way or roadway between the different houses?

The Witness: It is closely together.

The Court: Would you say that is all one building? Is that four houses in one building?

The Witness: They are individual houses.

The Court: They are individual houses?

The Witness: Yes.

The Court: Down here, are these individual houses where [50] it is divided into just two halves?

The Witness: They are right adjacent to each other, built together.

The Court: But they are separate houses?

The Witness: Yes, separate houses.

The Court: Where is the head of the village here?

The Witness: The west side.

The Court: Where is your house? Where is the house you lived in?

The Witness: This is our house.

The Court: There are three houses there right together, is that right?

The Witness: Yes.

The Court: And you called that the fifth house on the sixth row?

The Witness: Yes.

The Court: Where is the fifth house on the fifth row?

The Witness: This.

Mr. Brennan: For the record, you'd better iden-

(Testimony of Wong Hing Goon.)

tify that one has a little X in it at the top of the diagram above the figure 5.

The Court: May I ask the District Attorney a question? You are using a transcript here. I understand that this plaintiff had permission to come to the United States. After he got here to the United States, was there a hearing at San [51] Pedro to determine whether or not he should be admitted?

Mr. Talan: That's right, your Honor.

The Court: And this is the transcript that was made at that hearing?

Mr. Talan: There was a preliminary hearing and then there was a hearing before the Board of Special Inquiry. At that time the transcript of the preliminary hearing was incorporated as an exhibit to the transcript of the hearing.

The Court: So you have got a transcript of the preliminary hearing?

Mr. Talan: Yes.

The Court: And a transcript of the regular hearing?

Mr. Talan: Yes.

The Court: Is that a regular transcript?

Mr. Talan: It is a certified copy.

The Court: I mean by that, did a stenographer take down the questions and answers and transcribe them?

Mr. Talan: Yes, sir.

The Court: Then what happened after the hearing?

(Testimony of Wong Hing Goon.)

Mr. Talan: Well, then there was, I think, a motion to reopen the hearing. I believe it was denied. Then there was, I believe, an appeal taken to the Commissioner and the appeal was dismissed.

The Court: Was that hearing for the purpose of establishing the citizenship of this plaintiff? [52]

Mr. Talan: That's right. The original hearing was that. He claimed citizenship.

The Court: After that appeal had been disposed of or dismissed, then this action was filed?

Mr. Talan: There was another one taken to the Board of Immigration Appeals. That was turned down there. All the administrative remedies were exhausted.

The Court: And then, subsequently, this action was filed?

Mr. Brennan: That's right. My predecessor counsel, if there was a counsel, handled it. I came in only on the court action that I filed. I was not present at the hearings. However, I have a copy and I am familiar with what happened.

The Court: I wanted to be sure this was a transcript of testimony. Sometimes we get summaries.

Mr. Talan: This is a transcript of the hearing that took place before the Board of Special Inquiry at San Pedro in 1952.

The Court: All right, you can proceed.

Mr. Brennan, before you proceed, there was a hearing there and he was turned down. Do you have any objection to having the reason that he was turned down go in the record?

(Testimony of Wong Hing Goon.)

Mr. Brennan: No. I am perfectly willing for whatever the transcript shows, the findings of the Board, to be revealed to your Honor for whatever it is worth. I have no reason to withhold that from the court. [53]

The Court: Then I will ask why was the application turned down. On what theory, on what grounds?

Mr. Talan: There was a reasonable basis for concluding that he has not had the relationship to this American citizenship, the relationship that he claims.

The Court: That is a conclusion, I guess. What was the reason for coming to the conclusion? What does your transcript show that you think is not right?

Mr. Talan: This applicant, upon being questioned, was very unfamiliar with the members of his immediate household, the neighbors surrounding the house where he lived for 21 years, where he spent his childhood, his boyhood, could give no names of the adjoining neighbors, abutting neighbors. There were discrepancies in the testimony as given by the claimant and his father.

The Court: Is this relative to the village?

Mr. Talan: Yes.

The Court: In other words, your whole case or your theory was that he was not familiar with the village, is that correct?

Mr. Talan: He was so unfamiliar with the village it would be unreasonable to give credence to the claim that he has made.

(Testimony of Wong Hing Goon.)

The Court: That is your discrepancy, that he was not familiar with the village in which he was supposed to live? [54]

Mr. Talan: He normally would be expected to know those things if his claims were true.

The Court: Were there any other discrepancies other than locations of buildings in the village?

Mr. Talan: There was one material discrepancy as to a neighbor of the village. He knew very few of the neighbors, but one name he did give. He gave certain testimony with respect to that individual, claiming that he knew him, because this person was a bachelor slightly older than he is, and he visited with him constantly.

On the other hand, his father, naming the same man, said he was a married man and lived in this house with his family and was a man in his late forties, almost fifty years of age, and that was considered a material discrepancy.

This plaintiff knew very little about anybody in the village and what little he knew was found to be discrepant.

The Court: When did this hearing take place?

Mr. Talan: The preliminary hearing was in late January, 1952, and the hearing before the Board of Special Inquiry was on February 15, 1952.

The Court: Then there was an application to reopen?

Mr. Talan: There was a motion made to reopen the hearing.

(Testimony of Wong Hing Goon.)

The Court: Did the motion give what they wanted to supply? [55]

Mr. Talan: Yes, there was some reliance made on the documents submitted to the State Department, but in view of the lack of knowledge of this petitioner, it was considered whatever documents he might have would be very unlikely to overcome the testimony that he gave.

The Court: All right. You can proceed. I just wanted to know what you had in your record that you thought was important.

Q. (By Mr. Talan): Directing your attention to Exhibit 9 attached to Defendant's Exhibit A, I will ask you again who resided in the fourth house, sixth row, of this diagram?

A. It is a woman who is in the same village. We call her Sai Hon Moo.

Q. Was he married? A. Yes.

Q. Did her husband live there with her?

A. Her husband died.

Q. Were there any children living with her in that house? A. She has a son.

Q. What is his name? A. Ben Jong.

Q. Was he living in the house with her while you lived in the village?

A. The son works at Toy Shan and he sometimes return [56] home, sometimes did not.

Q. Directing your attention again to Exhibit 9 attached to Defendant's Exhibit A for identification, I will ask you who lived in the first house of the seventh row, and point to it?

(Testimony of Wong Hing Goon.)

A. Wing Yen.

Q. During all the time you lived in the village, did this person live in that house? A. Yes.

Q. Directing your attention once more to Exhibit 9 attached to Defendant's Exhibit A for identification, I will ask you who lived in this house in the tenth row? A. A man, Wah See.

Q. Did he live there all alone?

A. And wife.

Q. Any children?

A. Two daughters who were married.

Q. Did they have any family living there with them?

The Court: Wait a minute. He meant they had daughters, but they were married, but not living there necessarily.

Q. (By Mr. Talan): I am interested in knowing who was living there.

A. The daughters don't live there.

Q. How old was this man who lived in this house? A. About 50 something. [57]

Q. Did you ever visit with him in that house?

A. I seldom go to anybody's home.

Q. Was there any other individual with the same name as that man living in the village during the time you lived there?

The Court: What's that again?

Q. (By Mr. Talan): Was there any other person with the same name as that man living in the village during the time you lived in the village?

A. No other similar name.

(Testimony of Wong Hing Goon.)

Q. Pointing to the fourth house in the seventh row appearing in Exhibit 9 attached to Defendant's Exhibit A for identification, I ask you who lived in that house during the time you were living in the village? A. It is a lot without a house.

Q. In other words, this is a vacant lot?

A. It is a vacant lot.

Q. Were there any other vacant lots in the village during the time you lived there?

A. Here is a vacant lot (indicating).

Q. Were there any others?

Mr. Brennan: Let's see where he is pointing.

Mr. Talan: He is pointing to the fourth lot in row 5.

Mr. Brennan: Marked vacant lot.

Mr. Talan: It is marked a vacant lot. [58]

Q. (By Mr. Talan): Were there any other vacant lots?

A. There were some vacant homes, houses.

Q. Where were they? Will you point them out one by one?

Mr. Brennan: I object to the question; indefinite as to when or what period of time they may have been vacant.

Mr. Talan: I will correct that.

The Court: While he was living there in the village. Conditions don't change in China as fast as they do here.

Mr. Brennan: You are one up on me on that, your Honor.

Mr. Talan: He is now pointing to the house, lot

(Testimony of Wong Hing Goon.)

3, row 3, appearing in Exhibit 9 attached to Defendant's Exhibit A.

The Court: Is that supposed to be a vacant lot?

Mr. Talan: A vacant house.

He now is marking the third house in row 8 in the same exhibit.

Q. Those are all the vacant houses that you know about during the time you lived in the village?

A. Yes.

Q. What other persons did you know in the village besides those you have already mentioned?

A. I know some.

Q. What are the names of these other people you know?

A. You mean who lives in which house?

Q. We will get to that. I would like to know first [59] which people you know?

A. The first house, the first row, Don Suen lived there.

Q. How long did you know him?

A. When I was from my teens to 20 years old, my mother told us that this person lives there, identified this person to us.

Q. Didn't you know of your own knowledge who that was? A. Yes.

Q. I don't quite follow that response. Did you know of your own knowledge who that person was?

A. My mother told me about him and I knew him.

Q. When did your mother tell you about him?

(Testimony of Wong Hing Goon.)

How old were you at the time when your mother told you about him?

A. Oh, when I was up from my teens to 20 years old and when we used to go places, and we met this man and my mother said, "This is Mr. So-and-So."

Q. And from that time you knew it was this man that your mother described to you that lived in this first house in the first row in the village?

A. Yes. I think he lived there for a long time, perhaps, but I know that this person lived in this house.

Q. What other persons did you know in the village while you were living there?

A. And Dong You or Yew lives here. [60]

Mr. Talan: He is pointing to the third house in the sixth row.

Q. How long did that person live in that house?

A. I don't know how long. Since we were born and we knew how to talk, he has been living there.

Q. In other words, ever since you can remember, this Wong Dong You lived in this house? I am pointing to the third house in row 6. A. Yes.

Q. What other persons did you know while you lived in the village?

A. This house here, Wong Nguen Doon.

Q. Pointing to the first house in row 6 on the diagram. Did you know any other persons in the village while you lived there?

A. Wah Qwoon.

Q. How many families lived in the village while you were growing up? A. About 40 or more.

(Testimony of Wong Hing Goon.)

The Court: Of the 40 or more families, how many did you know personally?

The Witness: In the same village, we all practically know each other.

The Court: Did you know all these families, where they lived? [61]

The Witness: Yes.

The Court: How many children were in the village of about your age?

Mr. Brennan: What age is your Honor referring to?

The Court: About his age.

Mr. Brennan: At what time?

The Court: At the time he was growing up, how many children were there?

The Witness: I know several, about three or more. Some of them left for other places.

The Court: Didn't you know all the children in the village about your own age?

The Witness: Those that were born and went to the Toy Shan town to live or to stay, I wouldn't know those.

The Court: Whom did you play with when you were in the village growing up? Did you have any playmates?

The Witness: When we were in the village, the two brothers of us, we were attending school and we seldom go out to do much playing.

The Court: Did you know the other children in the village?

(Testimony of Wong Hing Goon.)

The Witness: You mean the little children I mentioned? You want the names of those children?

The Court: I want to know who your playmates were. With whom did you play in the village? [62]

The Witness: Wong You Ken is one. Wong Shee Shew Sin, Wong You Fong. I ordinarily associated with these few and my own kid brother, younger brother.

The Court: What house did the first one live in?

The Witness: Row 2, house 6.

Mr. Brennan: In view of the question as to what a row is and what are houses, can it be pointed out?

The Court: He knows what he is doing about the rows and houses. Where did the second boy live?

The Witness: The third one below.

The Court: This was the second boy now.

The Interpreter: He meant the third house on the sixth row.

The Witness: Yes, the third house on the sixth row.

Mr. Brennan: Is that the first one?

The Court: The last boy, where did he live?

The Witness: Seventh row, the first house.

The Court: You didn't play with anybody except these three boys, is that right?

The Witness: Sometimes with my aunt's son, Shew Tin.

The Court: Where did he live?

The Witness: He is the son of my paternal uncle. The opposite side of the big door.

The Court: Lived in your home?

(Testimony of Wong Hing Goon.)

The Witness: Occasionally he came over to our home. [63]

The Court: These are the four boys you played with while you were growing up?

The Witness: Yes.

The Court: I notice it's 3:00 o'clock. I think we'd better take our afternoon recess.

Mr. Talan: Judge, just before we do, may I ask him this?

The Court: Yes.

Q. (By Mr. Talan): Were those playmates of yours still in the village when you left in 1948?

A. Yes.

The Court: We will now recess until 15 minutes after 3:00.

(Recess.)

The Court: You may proceed.

Mr. Talan: Your Honor, with your leave, we would like to substitute Mr. Poy as interpreter from here on in.

Mr. Brennan: We followed the procedure the government said we had to follow. We picked from their own panel an interpreter, and I don't know why we should change to somebody who is employed by the Immigration Service.

The Court: I don't know any necessity for changing the interpreter. As far as I know, this interpreter is doing a good job.

Mr. Talan: We won't insist on it then. [64]

Q. Directing your attention to page 7 of De-

(Testimony of Wong Hing Goon.)

defendant's Exhibit A for identification, I will ask you whether or not——

Mr. Brennan: Before you proceed, counsel, you referred to page 10, and I notice there are two page 7's and two page 10's. Are you referring to the first 7?

Mr. Talan: The first 7.

Mr. Brennan: May the record show the page 10 you referred to, however, was out of the second?

Mr. Talan: Yes. I thought I made that clear, Mr. Brennan.

Q. I refer to page 7 of Defendant's Exhibit A for identification and ask whether or not you made the following statement under oath in response to this question:

“Q. When you were last in Nam On Village, who occupied the fourth house of your row; in other words, the house directly in front of yours?”

“A. I don't remember.”

A. You mean the one further down?

Q. No.

The Court: Just read the question and ask him if he didn't answer that way.

The Witness: Yes.

Q. (By Mr. Talan): Referring to that same exhibit, same page, I will ask you whether or not you gave the following answer [65] under oath to this question:

“Q. Did anyone occupy that house?”

“A. Yes.”

A. Yes.

(Testimony of Wong Hing Goon.)

The Court: Is this the vacant lot we are talking about?

Mr. Talan: No. This is the house in which he testified he knew the occupant. Your Honor, this witness has just testified that in the fourth house, sixth row, the one he was asked about at the immigration hearing, San Ho Moo lived in that house and her husband died, she has one son, sometimes home, sometimes not.

Q. Referring to the same exhibit, I will ask you whether you gave this answer under oath to this question:

“Q. Are you positive someone lived in that house when you were last in Nam On Village?”

To which you answered: “Yes.”

A. Yes.

Q. I direct your attention to the same exhibit, page 7, and ask you whether you gave the following answer under oath to this question:

“Q. How many people lived there at that time?”

“A. I don’t remember.”

A. Yes.

Q. I direct your attention to the same exhibit, page 7, [66] and ask you whether you gave the following answer under oath to this question:

“Q. To whom did that house belong during the years that you lived in that village?”

“A. I don’t know whether his name is Wong Dung You or not.”

A. Yes.

Q. I direct your attention to the same exhibit,

(Testimony of Wong Hing Goon.)

page 7, and ask whether you gave the following answer under oath to this question:

“Q. What family did Wong Dung You have living there?

“A. I just remember he had a wife living there. I don’t know whether they had any children or not.”

A. Yes.

Q. I direct your attention to page 7 of the same exhibit and ask whether you gave the following answer under oath to this question:

“Q. What was his wife’s name?

“A. I don’t know.”

A. Yes.

Q. I direct your attention to page 7 of the same exhibit and ask whether you gave the following answer under oath to this question: [67]

“Q. Are you positive that his name was Wong Dung You?

“A. There is a person in our village by the name of Wong Dung You, but I am not sure whether he lived in this house or not.”

A. Yes.

Q. I direct your attention to page 7 of the same exhibit and ask whether you gave the following answer under oath to this question:

“Q. According to your testimony, you lived in this same village, in the house in which you were born, from the time of your birth until CR 37 (1948), or a total of 21 continuous years. Now you tell us that you are unable to state who lived in the

(Testimony of Wong Hing Goon.)

house right next to yours during that time. Do you expect us to believe that statement?

“A. I never paid attention to other people in the village. I just know our own house and the household members.”

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether you gave the following answer under oath to this question:

“Q. Who occupied the third house in your [68] row when you were last in Nam On Village?”

“A. Like I told you before, I don’t remember anybody’s name in that village.”

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether or not you gave the following answer under oath to this question:

“Q. When you were last in Nam On Village, who occupied the second house of your row?”

“A. I don’t remember the people’s names in the village. There are forty somewhat houses; I can barely draw it out; I cannot remember their names.”

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether or not you gave the following answer under oath to this question:

“Q. When you were last in China, who occupied the fourth house, located on the fifth lot, in the fifth row, counting from the head. In other words, the house directly west of your house?”

“A. I want to repeat what I said a while ago

(Testimony of Wong Hing Goon.)

again, that I don't remember anybody's name in the village." [69]

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether you gave the following answer under oath to this question:

"Q. When you last lived in Nam On Village, who occupied the third house on the third lot of the fifth row, counting from the head?

"A. I really don't know anybody's name in the village. I can just draw that village and that is all."

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether you gave the following answer under oath to this question:

"Q. When you were last in Nam On Village, who occupied the second house of the fifth row?

"A. I don't know the name of any member of the village except the person who owned the house at the tail end of the village; that was a small house, and I remember something about that social hall."

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether or not you gave the following answer to this question: [70]

"Q. You mean you know the occupants of the single house standing by itself in the tenth row of that village?

"A. I don't know the one you meant. The one I meant is at the tail end, counting from the west;

(Testimony of Wong Hing Goon.)

that would be on the east side; and that belongs to Wong Wah See.”

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether or not you gave the following answer under oath to this question:

“Q. How do you happen to remember the owner of that house when you can’t remember the owners of the houses next door to yours?”

“A. He is a bachelor, that lives in that little house, just a little bit older than I am so I visited him all the time.”

A. Yes.

Q. I direct your attention to page 8 of the same exhibit and ask whether you gave the following answer under oath to this question:

“Q. When you were last in Nam On Village, who occupied the fourth house of the seventh row, counting from the head?”

“A. There is a person in our village by [71] the name of Wong Sai Koon, but I don’t know whether he lives in that house or not.”

A. There is no Wong Sai Koon.

Q. Did you or did you not give that answer?

A. I made an answer, but not Wong Sai Koon.

Q. Do you recall what answer you did give, what name you did give?

A. There is no Wong Sai Koon.

Q. Referring to page 9 of the same exhibit, I ask you whether you gave the following answer under oath to this question:

(Testimony of Wong Hing Goon.)

“Q. Do you know anyone else in that village other than Wong Wah See and Wong Sai Koon?”

“A. I just remember one other name, Wong Sai Wing.”

A. Yes.

Q. I direct your attention to page 9 of the same exhibit and ask you whether you gave the following answer under oath to this question:

“Q. Where did he live?”

“A. He lived near the head or west side of the village; I don't know which house.”

A. Yes.

Q. I direct your attention to page 9 of the same exhibit and ask you whether you gave the following answer to the following question: [72]

“Q. Do you mean to say that you lived 21 years of your life in your house in Nam On Village and can't tell us positively who occupied the house connected to it with a common wall, when you only left there four years ago?”

“A. There are so many houses in the village, I just can't remember.”

A. Yes.

Q. I direct your attention to Plaintiff's Exhibit 3 and ask you when was the first time you ever saw a facsimile of that picture in your house in Nam On Village?

A. At my Nam On home; it has been there a long time. I don't remember when.

Q. How old were you when you first recall seeing

(Testimony of Wong Hing Goon.)

a picture like this on the wall of your house in Nam On Village?

A. About eight or nine years old when I was able to recognize the picture.

Q. How old were you when you first saw the man who was pointed out to you as your father?

A. CR 21, when I was about five to six years old.

Q. Then you weren't able to recognize your father from this picture which I am holding, which is Plaintiff's Exhibit No. 3?

The Court: I thought the question was when he first saw [73] the picture.

Mr. Talan: As I understand, on his direct he said he was in his teens when he first saw this picture. Now he has changed that to about eight years. That would still be subsequent to the time his alleged father was pointed out to him.

Mr. Reporter, will you read the question?

(Question read.)

The Witness: I recognize it.

Q. (By Mr. Talan): The question is, were you able to recognize the man who was pointed out as your father at Nam On Village from this picture?

The Interpreter: Will you read the question again, please?

(Question read.)

The Witness: Yes.

Q. (By Mr. Talan): How old were you when you first saw this picture?

(Testimony of Wong Hing Goon.)

A. I don't know of the date. It has been there a long time, that picture.

Q. As best you can recall, about how old were you when you first were aware of this picture?

A. Maybe eight or nine years old.

Q. How old were you when you first saw the man who was pointed out as your father in China?

A. I think five or six years old then. [74]

Q. How could you have known from this picture who this man was? A. My mother told me.

Q. Did your mother tell you who your father was when he was present? Did she point him out physically or did she point him out in the picture?

A. She has pointed out to me in the picture, "This is your father." As far as when I was five or six, what method she used to introduce him, I can't recall.

Q. When were you married?

A. 1950, July 18th.

Q. Who was present at your wedding?

A. My mother and my younger brother, my father's friend, and my several friends.

Q. What is the name of your father's friend?

A. Lee Nget Sen.

The Interpreter: That is phonetically.

Q. (By Mr. Talan): What are the names of your friends who attended the wedding?

A. Among my friends were Lee Fay Koon, Chìn Yen Nen, Lee Ben Jen.

Q. Any others? A. No.

Q. How long have you known Lee Fay Koon?

(Testimony of Wong Hing Goon.)

A. I met him when I went to Hong Kong in one of the [75] firms.

Q. You didn't know him before you began living in Hong Kong? A. No.

Q. How long have you known Chin Yen Nen?

A. Also the same way in Hong Kong?

Q. How about Lee Ben Jen? A. Same.

Q. Did you have any friends from the village of Nam On present at your wedding?

A. My marriage took place at the bureau, marriage bureau in Hong Kong.

Q. Did you or did you not have some friends from the village of Nam On present at your marriage?

A. My mother and my younger brother.

Q. No. I asked about friends. These are relations.

A. My wife's father, my father-in-law.

Q. Are these all the people that were present at your marriage?

A. There were no special ceremony. We just went to the bureau and sign our names and got a paper.

Q. That isn't responsive. Were there any other people present other than the ones you have already named? A. No.

Q. Who owned the house in which you [76] lived—

The Court: If you are going to get to another subject, it is nearly 4:00 o'clock and it is necessary for me to quit promptly today. If you are through

with the marriage, we will recess until tomorrow morning.

Mr. Talan: I am through with that.

The Court: We will recess until 10:00 o'clock tomorrow morning.

(Whereupon, an adjournment was taken to 10:00 o'clock a.m., March 25, 1953.) [77]

March 25, 1953—10:00 A.M.

The Clerk: No. 14406, Wong Ken Foon vs. Mc-Granery, for further trial.

We have a stipulation here, your Honor, for substitution of defendant.

The Court: All right.

Mr. Brennan: Ready.

Mr. Talan: Ready.

The Court: You may proceed.

Mr. Talan: Your Honor, before we proceed, I would like to make a statement with respect to the travel affidavit under which this plaintiff traveled to the United States. This is a form which is authorized by the State Department to permit an applicant who claims admission to the United States to travel to the United States to establish his right to be admitted. It is a form that is permitted to be executed upon a minimum showing that the asserted claim is with some foundation, has some basis in fact. However, the allowance or permission of the execution of this form is not a determination of the merits of the claim. It permits merely the applicant or claimant to travel to the United States where

he may then make application to the proper authorities, which in this matter would be the Immigration Service.

The Court: I understand that. [79]

Mr. Brennan: I have no dispute with that.

The Court: I understand that is the procedure.

WONG HING GOON

the witness on the stand at the time of adjournment, having been previously duly sworn, resumed the stand and testified further through the interpreter as follows:

Cross-Examination (Continued)

By Mr. Talan:

Q. Who owned the house in which you lived in Nam On Village from the time you were born until you left in 1948?

A. It was handed down by our ancestors.

Q. Did your father own that house in which you were born and lived in Nam On Village?

A. At present we are living in it, but it was handed down to us by our ancestors.

The Court: Just a minute. What do you mean, "handed down to us"? Who is "us"?

The Witness: Every member of the family may dwell in it.

The Court: May what?

The Witness: May live in it.

The Court: You say it was "handed down to us." What do you mean when you say "it was handed down to us"?

(Testimony of Wong Hing Goon.)

The Witness: Whether it was definitely given to my father or not, I would not know, but he would know, but we all [80] live in that house.

The Court: I don't know, I don't assume—maybe the interpreter or the interpreters could give us some information—when property is handed down from generation to generation in China, I don't assume they have the same procedure as they have here, that is, they have a court order. I don't assume there is even anything in writing. Do you know about how property is handed down from generation to generation?

The Interpreter: It is just sort of an understanding. If the grandfolks left the property, the next generation would be the father of this generation, and he would take care of it. If the father died, the oldest son is in charge of it, but they don't usually, until recent times, have a definite written document to prove who should be the sole owner of that property. It is understand, they have a family sort of system that they take for granted that nobody is going to fight about it. Everybody will enjoy it, that is, the generation surviving.

The Court: Supposing there are two or three boys. Do all the boys have a right to use the house?

The Interpreter: Yes.

The Court: Or just the eldest?

The Interpreter: No, everyone. It is something like the homestead idea.

The Court: Suppose there are two or three boys

(Testimony of Wong Hing Goon.)

and they have a big family and the house isn't large enough to take [81] care of all the boys?

The Interpreter: If anyone wants to live in it, no one can stop them. But it isn't like in the United States where you have a definite, well-designated rule that a certain percentage goes to each one. We don't have that until recent times, since the founding of the Republic.

Q. (By Mr. Talan): In other words, would your father's brothers own the house as well as your father?

Mr. Brennan: Object to that as calling for a legal conclusion of this witness, your Honor, and not proper cross-examination.

The Court: I doubt very much if this witness knows. I doubt very much if any of these witnesses know. They can testify there was just a general understanding.

Mr. Talan: The witness testified the house belonged to "us."

The Court: Let's find out who "us" is.

Mr. Talan: That's what I am trying to do.

The Court: Can you tell us any more definitely, when you say the house belonged to "us," who that is, the names of the people you include in "us"?

The Witness: The American custom and Chinese custom differ in this respect. If somebody should die and hand down something to the son, if there be one son, naturally, that would be the sole person to take over the property, but if [82] there be two

(Testimony of Wong Hing Goon.)

sons, then two of them could also use the same property.

Mr. Talan: Is that the answer he gave?

The Interpreter: That's the answer he gave.

The Court: You haven't answered the question yet. You used the word "us." Give us the names of the people you mean when you say "us."

The Witness: As far as legality is concerned, I don't understand much, but I know that house was handed down to us to live in and at present we are all occupying it. That is what I meant.

The Court: Who is occupying the house now?

The Interpreter: Excuse me, Judge. He also said, "Whether it is written down for whom, I don't know."

The Court: All right. Now will you ask him the other question, who is occupying the house now?

The Witness: At present my mother is in Hong Kong. No one is living in that house now.

The Court: May I ask a question of the interpreter? Suppose no one lives in the house. Is it locked up, boarded up, or what do they do with it?

The Interpreter: That is an individual problem. I don't know. Sometimes they lock it up.

The Witness: We have left the home for so long, whether someone is living there or not, we do not know. [83]

The Interpreter: I asked if it is locked and left behind and he said the house is locked and left behind and whether someone is occupying it now or not, he wouldn't know.

(Testimony of Wong Hing Goon.)

The Court: I don't think this witness knows who is the owner of the house.

Q. (By Mr. Talan): Does your family own any other property in the village of Nam On?

A. No, not my father.

Q. Do any of your relatives own any property in the village?

A. My paternal grandfather has some.

Q. Do you have any other relatives who own any property in that village?

A. That I don't know. You mean my relations, my relatives?

Q. Relatives. A. I do not know.

The Court: Now, just a minute. You say your grandfather owns some property in the village?

The Witness: Yes.

The Court: What was it?

The Witness: Some houses and some land, a field.

The Court: Do you know what houses your grandfather owned?

The Witness: The one that my father's brother lived in [84] near us is my grandfather's property and the one we are living in, it was handed down from our ancestors. Maybe he owns that, too.

The Court: Which house is it you are referring to? Let's have the diagram. Which house are you referring to that you said was owned by your grandfather?

The Witness: This is the home handed down by our ancestors, this one with the cross is my grand-

(Testimony of Wong Hing Goon.)

father's, too.

Mr. Brennan: Indicating it to be row 5.

The Court: I thought that was a vacant house.

Mr. Talan: No.

The Court: The one below it?

Mr. Talan: Yes.

The Witness: This is the vacant lot.

The Court: When you appeared before the immigration authorities, you told them you didn't know anybody that owned any houses?

The Witness: I didn't understand the question. I was sort of nervous and confused at that time.

The Court: You were asked two or three different times if you knew who owned any of the houses in the village and you said you didn't know anybody that owned any house.

The Witness: I didn't understand the word "property," when they put it in the question and, of course, I was a little confused. I didn't want to say the wrong thing. [85]

The Court: You say your grandfather owned other houses in the village, other property in the village. What other houses did he own?

The Witness: Somewhere not in this area, five lis from here.

The Court: We were talking about the village. We were not talking about property outside the village, Nam On Village.

The Witness: No more here.

The Court: Just the one house?

The Witness: Yes.

(Testimony of Wong Hing Goon.)

Mr. Brennan: I think he has shown two houses, your Honor, has he not?

The Court: No. He has shown one house for the grandfather.

The Interpreter: This one is the ancestral house handed down, and this one, he knows his grandfather had it. He doesn't know how many generations that was handed down, but this is the one he knows.

The Court: This is the house in which you lived?

The Witness: Yes.

The Court: Have you ever been in your grandfather's house which was directly west of the house that you lived in?

The Witness: Yes. [86]

The Court: Why didn't you tell the immigration authorities that your grandfather owned the house directly to the west?

The Witness: I can't explain the reason, because I was there being questioned for several hours and it may be I wasn't sure of the question.

The Court: My recollection of the transcript that you read yesterday is that he said several times he did not know the names of anybody else that lived in the village.

Mr. Talan: That is true.

The Court: Was he asked directly? It seems to me he was asked the name of the person who lived in the house directly to the west and he said he did not know. Is that correct?

Mr. Talan: I don't recall his exact answer.

(Testimony of Wong Hing Goon.)

The Court: Can you find that in the transcript? Have you got your transcript here? Here is the transcript. I know two or three times he said he didn't know anybody, and it seems to me that either here yesterday you asked who lived in the house directly to the west or he was asked at this immigration hearing. Read it so we can all hear it.

Mr. Talan: It is on page 8, the first part of the exhibit.

"Q. When you were last in China, who occupied the fourth house, located on the fifth lot, in the fifth row, counting from the head. In other [87] words, the house directly west of your house?"

"A. I want to repeat what I said a while ago again, that I don't remember anybody's name in the village."

The Court: It is my recollection he was asked about this specific house.

Mr. Brennan: Well, I don't think he was asked in the immigration hearing about the——

The Court: Well, this question here says he didn't know the name of anybody in the village and, not only that, but he said it two or three times. He emphasized it. It is inconceivable how a youngster could live in a village of 40 or 50 houses for 20 years and then say he doesn't know anybody that lived in the village. If it was an American youngster, he would be in every one of the houses and probably could tell you more about the life history of the people than they could themselves.

Mr. Talan: Shall I proceed, your Honor?

(Testimony of Wong Hing Goon.)

The Court: Go ahead.

Q. (By Mr. Talan): Does your family own any rice land in or near the village of Nam On?

The Court: Limit the word "family." Family members or ancestors? Let's limit it. Who do you mean by family?

Q. (By Mr. Talan): Let's put it this way: Did your grandfather own any rice land in or near the village of Nam [88] On? A. Yes.

Q. Did your father own any rice land in or near the village of Nam On? A. No.

The Court: Then may I ask a question? Your grandfather is dead?

The Witness: He is dead.

The Court: What happened to the lands your grandfather owned?

The Witness: Grandmother.

The Court: Is your grandmother still alive?

The Witness: Living.

Q. (By Mr. Talan): Do you consider your grandmother a member of your family?

A. Yes.

Q. Did you say your grandmother owns some rice land near the village of Nam On?

A. Yes.

Q. I direct your attention to page 12 of Exhibit 1 attached to Defendant's Exhibit A, and ask whether you gave the following answer under oath to this question:

"Q. What rice land does your family own?

"A. They don't own any rice land."

(Testimony of Wong Hing Goon.)

Mr. Brennan: You are referring to the second part? [89]

Mr. Talan: Yes, page 12, the second series of pagination.

The Witness: My answer was for ourselves, the younger generation.

Q. (By Mr. Talan): But you do understand your grandmother to be a member of your family?

A. Although we are all one family, what belongs to grandmother, when the harvest comes, she gets the property from the harvest, and what we plow, we get our own. That is the way, I think.

Q. Did you ask the person who was examining you at that time to explain what he meant by that question?

A. I didn't ask any question. I was quizzed for several hours and I was confused with the question to begin with.

Q. Then did you give this answer, "They don't own any rice land," in answer to that question which was asked of you by the primary inspector on January 29, 1952, at San Pedro, California?

A. I just don't even remember the exact wording of that question, but I want to explain my interpretation of the family is that way.

Q. I would like a yes or no answer. Did you give that answer?

The Court: Doesn't the transcript speak for itself?

Mr. Talan: It isn't in evidence yet. I want a yes

(Testimony of Wong Hing Goon.)

or no answer, he either did or did not give this answer. [90]

The Court: All right.

The Witness: His word "they" is what confused me. My "they" here meant the younger generation.

Q. (By Mr. Talan): Well, did you give that answer? Did you answer in those words?

The Interpreter: I asked him already and he wants to explain.

The Witness: I don't know the English translation of it, but my way was the present generation.

Mr. Talan: I don't seem to be getting a responsive answer. I will drop it at this point.

Q. When you left the village of Nam On on or about August or September of 1948, how many vacant houses were there at that time in the village?

A. You mean just an empty house or the lots, too?

Q. Just the houses at this time.

A. What I know were two.

Q. Which ones were they?

A. As far as I can recollect, it is the third row, third house, and the eighth row, third house.

Q. These houses were vacant at the time you left in 1948? A. Yes.

Q. I direct your attention to page 5 of Exhibit 1 attached to Defendant's Exhibit A and ask whether you gave the [91] following answer under oath to this question:

"Q. Are there any vacant houses in the village?

"A. No vacant house that I know of; unless

(Testimony of Wong Hing Goon.)

they have become vacant since I went to Hong Kong in 1948.”

A. I don't know even what they have asked and about my answers at the immigration, but I do remember there were two houses vacant when I left for Hong Kong in 1948.

Q. Well, I would like to know, yes or no, whether you gave this answer: “No vacant house that I know of; unless they have become vacant since I went to Hong Kong in 1948.”

A. I don't recall answering the question in that manner, because I was quite confused when they asked me many, many questions that day.

The Court: Let's have the map again. Will you point out the two vacant houses?

The Witness: This one and this one (indicating).

The Court: You are talking about the third house in the third row, is that correct?

The Witness: Yes.

The Court: And the third house in the eighth row?

The Witness: Yes, 8-3, that's right.

The Court: Those were vacant?

The Witness: As far as I recall, these were two vacant [92] houses.

The Court: When you went down to Hong Kong, the house directly to your west wasn't vacant, that is the fifth house in the fifth row?

The Interpreter: Wasn't vacant, you said?

The Court: Was not vacant.

(Testimony of Wong Hing Goon.)

The Witness: No.

The Court: Your grandfather lived in that house?

The Witness: My aunty. My father's older brother's wife.

The Court: She lived in the house?

The Witness: Yes.

The Court: Were there any children in that house?

The Witness: Yes.

The Court: How many?

The Witness: A girl and a boy, a daughter and a son.

The Court: How old was the boy?

The Witness: He is 20 this year, about 20 years old now.

The Court: The boy is about your age then?

The Witness: I am a few years older than he.

The Court: A few years older?

The Witness: I am about six years more older.

The Court: How about the girl, how old was the girl?

The Witness: 17 now. [93]

Q. (By Mr. Talan): When you left the village of Nam On in 1948, how many vacant lots were there then in the village? A. Two.

Q. Which ones were they?

The Court: You'd better show him the diagram. Let's get it on the diagram. Can we designate it by the row?

The Witness: Seventh row, the fourth one.

(Testimony of Wong Hing Goon.)

Q. (By Mr. Talan): The fourth what?

A. Lot. Fifth lot and the fourth lot, also.

Q. I direct your attention to Exhibit 1, attached to Defendant's Exhibit A and ask you whether you gave the following answer under oath to this question.

Mr. Brennan: What page?

Mr. Talan: Page 12, Exhibit 1, attached to Defendant's Exhibit A.

Q. "You have stated that the fourth lot in the fifth row in Nam On village is vacant. Are there any other vacant lots in the rows between the houses? A. None that I can remember."

A. It seems I might have answered that way.

Q. Did you answer the question that way? Is that your answer?

A. I am not very sure. It seems I might have answered that way, but I am not definite. [94]

Q. While you lived in the village of Nam On from the time of your birth until 1948, who occupied the first house in the seventh row?

A. Wong Wing Yen.

Q. Who else lived in the house there with him?

A. His family.

Q. Who were the members of his family?

A. As far as I know, there is a wife and a son living with him.

Q. What are their names?

A. I don't know the wife's name. We just call her by the village way, like madam somebody, and the son's name is Wong You Fong.

(Testimony of Wong Hing Goon.)

Q. Will you tell us how the father's name is spelled?

A. Wing Yen (phonetically) or Wen Yen.

Q. Who is Wen?

A. Wen may be spelled W-e-n or W-i-n-g. The character is the same.

Q. Was there a person by the name of Wen Yen living in the first house in the seventh row while you lived in the village of Nam On? A. Yes.

Q. Who is he?

A. He is one of the villagers.

Q. Is he the same person as Win Yen? [95]

The Interpreter: How do you spell that?

Mr. Talan: W-o-n-g W-i-n Y-e-n.

The Interpreter: I think it's the same phonetically.

The Court: Ask the witness.

The Interpreter: He just said it is the same.

The Witness: There is only one Wen Yen.

Q. (By Mr. Talan): Is he the person who lived in the first house, seventh row, in Nam On Village while you lived there? A. Yes.

Q. When you left your house in Nam On Village in 1948, who was living there at that time?

The Court: I think we'd better clarify that. You mean just before he left?

Mr. Talan: Just before he left.

The Court: Or after he left?

Mr. Talan: Just before he left, who was in that house.

The Court: All right. Just before he left.

(Testimony of Wong Hing Goon.)

The Witness: My mother and younger brother.

Q. (By Mr. Talan): Was there anybody else living in the house at that time?

A. My mother and my younger brother.

The Court: And you? You were living in the house?

The Witness: Yes, of course.

Q. (By Mr. Talan): I direct your attention to page 13 [96] of Exhibit 1 attached to Defendant's Exhibit A, and ask whether you gave the following answer under oath to this question:

“Q. What were the sleeping arrangements in your house in Nam On Village just prior to your departure for Hong Kong in 1948?

“A. My No. I uncle's family occupied the big door side bedroom. I don't know the sleeping arrangements in that bedroom. There are two beds in our bedroom which is the small door side bedroom. My mother occupied the larger bed by herself. My younger brother and I occupied the smaller bed.”

A. I meant that the two children of my uncle oftentimes come over and occupied the bedroom on the right side, I mean on the big door.

Q. Did that include your aunt, too?

A. Usually the children. My aunty very seldom.

Q. Did you give that answer that has been read? Yes or no.

A. Yes. I meant the children.

The Court: Were they living in the house just before you left?

(Testimony of Wong Hing Goon.)

The Witness: Sometimes.

The Court: Was this house any different than the ordinary Chinese house in construction on the inside? [97]

The Witness: About the same.

The Court: It had a courtyard on which the sleeping rooms opened, that is, a room, but the big door and little door opened into the one courtyard or one room?

The Witness: You see, it is the same. There are some newer ones that may be different, meaning modern ones may be different.

The Court: But how about this house?

A. It is of the general type.

Q. (By Mr. Talan): Who lives in this house in Nam On Village at the present time?

A. At present, I do not know who.

Q. Do you know whether or not anybody is living there? A. No. Don't know.

The Court: Just a minute. Let me ask a question. Who lived in the house at the time you appeared before the immigration authorities after you came to the United States.

The Witness: I do not know.

The Court: All right.

Q. (By Mr. Talan): I direct your attention to page 13 of Exhibit 1 attached to Defendant's Exhibit A and ask whether or not you gave this answer under oath to this question:

"Q. Who now occupies this house?

"A. My No. 1 uncle's family still occupies [98]

(Testimony of Wong Hing Goon.)

the big door side. Our side is vacant.”

A. Yes. I meant on our side it was vacant, but on the other side, if they went and lived in there, which is very likely, because they could go and live on the right side when our house is vacant.

Q. That is your answer?

A. That is my meaning.

Mr. Talan: Your Honor, I now offer Defendant's Exhibit A in evidence.

The Court: It was marked for identification. It may be received in evidence.

The Clerk: So marked, Defendant's Exhibit A.

(The document referred to was received in evidence and marked Defendant's Exhibit A.)

Q. (By Mr. Talan): Where is Jeung Sing Village with reference to Nam On Village?

A. About five miles.

Q. Did you ever visit this village?

A. Yes.

Q. What were the occasions of your visits to that village?

A. My grandmother lived there.

Q. Do you know how many times you visited her in Jeung Sing Village?

A. I can't tell you exactly how many times, but occasionally [99] I went to see her there.

Q. Can you remember how old you were the first time you visited your grandmother in Jeung Sing Village?

A. I can't exactly tell because when I was

(Testimony of Wong Hing Goon.)

young, my mother might have taken me there as the first time.

Q. To the best of your recollection, how old were you? Were you in your teens? Were you 20? Just about how old were you when you first visited your grandmother in Jeung Sing Village?

A. She move there about CR 23, and I guess I was about seven or eight years old. I am not sure of the exact age.

Q. I direct your attention to page 6 of Exhibit 1 attached to Defendant's Exhibit A and ask whether you gave the following answer under oath to this question:

“Q. In addition to the two villages, Long Baw and Nam Lok, which you have already located in the vicinity of Nam On Village, please locate the following:”——

And among the villages was Jeung Sing Village. To which you gave this answer:

“A. I don't know where Jeung Sing Village is.”

A. This word is different from the village spelling, I mean the enunciation was different. It didn't occur to me it was the same village my grandmother was living in.

Q. Did you state at that time in answer to that question, [100] “I don't know where Jeung Sing Village is”?

A. This is not the village. There is no such a village in Chinese. It is this way (witness writing).

(Testimony of Wong Hing Goon.)

That translation is incorrect, because this is the right word for the Chinese.

Q. Well, did you give that answer, whether or not it was with reference to the village you had in mind? All I am asking is, did you make that answer, "I don't know where this village is"?

A. Yes.

Q. Did you go to school in Nam On Village?

A. Not there.

Q. Where did you go to school while you lived in Nam On Village? A. Bok Hon School.

Q. Where was that located with reference to Nam On Village? A. About a li or so.

Q. In which direction? A. North.

Q. How long did you attend the Bok Hon School? A. Four years.

Q. What was the last grade you finished in that school? A. Fourth year. [101]

Q. Did you have any additional schooling in China?

A. I went to Toy Shan or Hoy Shan, Guey Jan School.

Q. How long did you attend that school?

A. About half a year.

Q. Was that a high school?

A. Middle school, we call it in China, secondary, equivalent to our secondary.

The Court: Did you go to that school after you went to Bok Hon School?

The Witness: After my studying at Bok Hon, I did not go to school during war. After the war I

(Testimony of Wong Hing Goon.)

went to Guey Jan School in Hoy Shan.

Q. (By Mr. Talan): How many years, education have you had?

A. About four and a half years.

Mr. Talan: I have no further questions, your Honor.

The Court: Well, I notice it is 11:00 o'clock. We will take our morning recess. We will recess until 15 minutes after 11:00.

(Recess.)

The Court: You may proceed.

Mr. Brennan: Call Russell K. Fong. Will you take the stand, please? [102]

RUSSELL K. FONG

called as a witness by and on behalf of the plaintiff herein, having been first duly sworn, was examined and testified as follows:

The Clerk: You understand English?

The Witness: Yes.

The Clerk: Your name, please?

The Witness: Russell K. Fong.

Direct Examination

By Mr. Brennan:

Q. Mr. Fong, you are a public accountant, are you?
A. Yes.

Q. During the years 1943 through 1947, were you employed by the Wong Jew Produce Company as accountant for them?
A. Yes.

(Testimony of Russell K. Fong.)

Q. Did you bring with you your records relating to an employee of that company by the name of Wong Ken Foon? A. Yes.

Q. May I see the record that relates to the withholding tax deductions for Wong Ken Foon?

Mr. Talan: Your Honor, I would like to enter an objection to this line of examination on the basis that if counsel is going into the preparation of income tax returns for [103] the plaintiff's alleged father, why, this man's testimony is not the best evidence available to establish what income tax returns were made and what dependents he claims were made in the income tax returns for the years in question.

The Court: Overruled.

Q. (By Mr. Brennan): You have now shown me a card, at the top of which is the wording "Social Security No. 565-30-0202, name Wong Ken Foon, and the year 1943, address 279 North Lake Avenue, Pasadena."

Is that in your handwriting?

A. Yes, it is in my handwriting.

Q. Did you, under the wording "Dependents" place the lettering "4"? A. Yes.

Q. The No. 4? A. Yes.

Q. Where did you get the figure 4?

A. When the employer asks for how many dependents he got, you have to take down that in order to get the withholding tax credit withheld, you see.

(Testimony of Russell K. Fong.)

Q. You secured that and put that on your records in 1943?

A. I didn't secure it directly, but his employer got it from him and then the employer gave it to me that way.

Q. But you placed this figure on here? [104]

A. Yes.

Q. Then did you determine the deductions to be made or the amount of withholding tax to be withheld by the produce company from those figures?

A. Oh, yes.

Q. Did you bring with you the employer's tax record? A. Yes.

Q. For the years 1942 and 1943?

A. 1942, is here.

Q. 1942, you show me "this copy must be kept by employer," employer's tax return 1942. Does that show the name on there of an employee by the name of Wong Ken Foon?

A. Yes. On the last quarter, his name appears here, you see.

Q. You have shown me a page that is the report for the last quarter? A. Yes, last quarter.

Q. Is that the first time in 1942, that the name Wong Ken Foon appears? A. Yes.

Q. And that shows taxable wage paid of \$37.50, is that correct? A. Yes, that's right.

Q. What does that indicate to you from those records as to the amount of time that he was employed during 1942? [105]

(Testimony of Russell K. Fong.)

A. I don't remember whether they gave me the figures. The employer gave me the figures, see, and enter here. That is all.

Q. That is the only wage at that time?

A. Yes.

Q. Do you have the same records for 1943?

A. Yes.

Q. You show me employer's tax return paid April 21, 1943. Does that show the name of Wong Ken Foon as an employee?

A. Yes. That is the first quarter of 1943.

Q. That shows the total paid of \$560.40 for the first quarter, is that correct? A. Yes.

Q. Did you determine from that how the amount paid was determined?

A. The employee gave me the record, the payroll record. I enter here on the card and the form here, enter the total to this quarterly report.

Q. So the total of \$560.40 was determined from the figures in your quarterly card that you have just referred to as the payments that were made form week to week to Wong Ken Foon in that first quarter? A. Yes.

Q. And that you determined by the amount of dependents [106] being four, is that correct?

A. Yes.

Q. Is that true of each quarter from 1943 for some period after that time? A. Yes.

Q. How long do your records show that you continued to use four dependents for the purpose of withholding tax deductions?

(Testimony of Russell K. Fong.)

A. From 1943, through 1949.

Q. In 1949, do you know why there was a—with-
draw that.

Did Wong Ken Foon terminate his employment
with the produce company in 1949?

A. Yes, in December, 1949.

Q. That was the reason for discontinuing the
records as far as he was concerned? A. Yes.

Q. Is that correct? A. Yes.

Q. He severed his employment with the com-
pany? A. Yes.

Q. I show you a statement—I have shown these
to counsel—I show you a statement of income tax
withheld on wages, calendar year 1943, employee's
receipt, Wong Ken Foon, giving the same social
security number which we just read from [107]
your records, with the employer Wong Jew Produce
Company, and ask if that was prepared under your
direction? A. I prepared it myself.

Q. Is that a carbon copy of what you prepared
and furnished to the employee?

A. Yes, I did.

Q. That shows a total wage paid during the
calendar year 1943, of \$2,621.90, is that correct?

A. That's right.

Q. And the amount of income tax withheld as
\$72.80? A. Yes.

Q. And that corresponds with this card which
we refer to, is that correct? A. Yes.

(Testimony of Russell K. Fong.)

Q. And it was from this card that you made this up? A. Exactly.

Q. From this you used a figure of four dependents to determine the amount of income tax withheld, is that correct? A. Yes.

Mr. Brennan: At this time we offer in evidence the document which I was using just now in interrogating the witness?

Mr. Talan: I will object, your Honor. I will insist that this is not the best evidence of what—

The Court: I assume that the proper thing to do would be [108] to get a certified copy, but there is no use putting the parties to this expense or trouble if it isn't necessary. If you will tell me you don't think this is a proper copy, I will sustain the objection.

Mr. Brennan: If your Honor please, we have a further and additional difficulty that I pointed out in connection with another case earlier. For the purpose of the record, I will present it here. We are informed by the Director of Internal Revenue that they have no records preserved for income tax returns filed in the years 1946 or earlier. The 1946 records and all earlier returns have been destroyed as they are not required to be kept by the government. So we are having now to proceed with secondary evidence in view of the fact that there is no opportunity of securing certified copies of these returns.

On the further ground that we are presenting this as direct evidence of what this man prepared, which

(Testimony of Russell K. Fong.)

I think is the best evidence of what this record shows.

The Court: The objection is overruled. It may be received and marked Plaintiff's Exhibit 5.

The Clerk: So marked.

(The document referred to was received in evidence and marked Plaintiff's Exhibit No. 5.)

Q. (By Mr. Brennan): Did you prepare this document that I now show you? [109]

A. No, I didn't prepare this one.

Q. Did you prepare this document that I now show you? A. Yes.

Mr. Brennan: May this be marked for identification?

The Court: It may be marked Plaintiff's Exhibit 6 for identification.

The Clerk: So marked.

(The document referred to was marked Plaintiff's Exhibit No. 6 for identification.)

Q. (By Mr. Brennan): I show you Plaintiff's Exhibit 6 for identification and ask you what that represents?

A. It represents the total amount wages paid him in 1944, \$3,211, and the withholding tax \$143.

Q. That is for the year 1944? A. Yes.

Q. Was that prepared from a similar card from your original records?

A. Yes. I have it right here.

(Testimony of Russell K. Fong.)

Q. How many dependents did you use in determining the withholding tax?

A. Four dependents.

Q. Four dependents for the year 1944, is that correct? A. Yes.

Q. And this was prepared, Plaintiff's Exhibit No. 6 [110] for identification was prepared by you and furnished to Wong Ken Foon?

A. Yes, that's right.

Mr. Brennan: I offer this in evidence.

The Court: It may be received and marked Plaintiff's Exhibit 6.

The Clerk: So marked.

(The document referred to was received in evidence and marked Plaintiff's Exhibit No. 6.)

Q. (By Mr. Brennan): Did you prepare this document that I show you?

A. No, I don't think so.

Q. Do the records which you keep show the names of the dependents for any of the employees of the company?

A. No. The men are Chinese, you know, and they don't understand the name, you know.

Q. I take it from that it is your statement that your records do not show the names of who the dependents are? A. Yes.

Q. It just shows the number of dependents?

A. Yes.

Mr. Brennan: Cross-examine.

(Testimony of Wong Hing Goon.)

Mr. Talan: We have no cross-examination, your Honor.

Mr. Brennan: May this witness be excused?

The Court: May the witness be excused? [111]

Mr. Talan: Yes, your Honor.

The Court: You may be excused.

(Witness excused.)

Mr. Talan: May we recall Wong Ken Foon at this time?

Mr. Brennan: Oh, yes.

The Court: Is this for cross-examination?

Mr. Talan: Yes.

WONG KEN FOON

a witness by and on behalf of the plaintiff herein, having been heretofore duly sworn, resumed the stand and testified further through the interpreter as follows:

Cross-Examination

(Continued)

By Mr. Talan:

Q. When was the last time you were in China and in Nam On Village in China?

A. CR 22.

The Interpreter: 1933 or early 1934.

Q. (By Mr. Talan): On this last visit to Nam On Village around the year 1933 or 1934, where did you stay? A. Nam On Village.

Q. Where in the vilage did you stay on this visit? A. My own home.

Q. And where is your own home located in the

(Testimony of Wong Ken Foon.)

village? [112] A. Sixth row, fifth house.

Q. On that visit, how long did you live in that house in Nam On Village?

A. As long as I was in China, at home.

Q. How long was that?

A. About 13 months.

Q. While you were living in that house for those 13 months, who else was living in that house?

A. My wife, my two sons, myself, and sometimes my sister-in-law and her children.

The Court: How many children of your sister-in-law?

The Witness: She has two boys and a girl.

Q. (By Mr. Talan): What are the names of your sister-in-law and her children?

A. My sister-in-law's name is Lee Shee. The children are Sil Fung, Shee Moon, Shee Ting.

Q. During this visit some time in 1933 or 1934, did your parents live in the same house?

A. Yes.

Q. They lived in the house, too, with your wife, your two sons, yourself, your sister-in-law and her children?

A. Not necessarily at one time, not necessarily we all together at one time.

Q. While you were in the village for 13 months some time in 1933 and 1934, did your parents at any time during [113] that period live in the same house? A. Yes.

Q. Was it during the first part of your stay in 1933 or 1934, or the latter part of your stay?

(Testimony of Wong Ken Foon.)

A. The first part of the stay.

Q. How long did your parents live in the house before they left that house?

A. Until the time they moved.

Q. Until they moved from the village of Nam On or moved to another house in Nam On?

A. To another village.

Q. Prior to the time your parents moved from the village of Nam On, did they live with anybody else in the village of Nam On?

A. You mean my mother?

Q. Both parents.

A. I think the time when I was home, she just stayed with us only, they stayed with us only.

Q. I direct your attention to page 16 of Defendant's Exhibit A and ask you whether or not you gave the following answer under oath to these questions:

"Q. When did your mother move from Nam On Village to Jung Sing Village?

"A. About CR 23 (1934).

"Q. Where did she live prior to that time [114] in Nam On Vilage?

"A. With my brother, Wong Ken Fook."

A. I am not clear what you mean by did she live away from us, or what is the exact meaning of your question.

Q. All I want to know at this time is did you give those answers to these questions:

"Q. When did your mother move from Nam On Village to Jung Sing Village?

(Testimony of Wong Ken Foon.)

“A. About CR 23 (1934).

“Q. Where did she live prior to that time in Nam On Village?

“A. With my brother, Wong Ken Fook.”

Did you make those answers to those questions?

A. This is right. I couldn't guarantee she hadn't lived with Wong Ken Fook before then.

Q. Did you give this answer, “With my brother, Wong Ken Fook”?

A. I don't remember.

Q. While you were visiting in Nam On Village in 1933 and 1934 and living in your house in the village, during what part of that visit did your sister-in-law and her children live with you in that same house?

A. No definite time.

Q. Did your sister-in-law and her children sleep over in the house while you were living there? [115]

A. Sometimes.

Q. Were your sister-in-law and her children regular members of the household in that house where you were staying while you visited in Nam On Village in 1933? A. Yes.

Q. I direct your attention to page 14 of Defendant's Exhibit A and ask whether you gave the following answer under oath to this question:

“Q. You told the primary inspector that the family of your brother, Wong Ken Fook, lives in the fifth house on the fifth row, the house directly opposite the large door of your house. Was that statement correct? A. Yes.

A. Yes, that's right.

(Testimony of Wong Ken Foon.)

Q. I direct you attention to page 14 of the same exhibit and ask whether you gave the following answer under oath to this question:

“Q. Has your brother, Wong Ken Fook’s, family always lived in that same house?”

A. Yes.”

Mr. Brennan: Before that is answered, counsel, you skipped, I believe, several questions and answers, and there is no showing as to what that “same house” refers to. Apparently there is a question and answer just ahead of that one which refers [116] to the fifth house in the fifth row, rather than the fifth house in the sixth row.

Mr. Talan: That is the question.

Mr. Brennan: If your Honor please, the question as presented by counsel is unintelligible to this witness without asking the question and answer immediately preceding.

The Court: Supposing you read that.

Mr. Talan: Which one are you referring to, Mr. Brennan?

Mr. Brennan: Maybe I have got the wrong one. Is this what you have just read?

Mr. Talan: No, this here.

Mr. Brennan: I am sorry. Counsel was right.

The Witness: The fifth row, the fifth house, you mean?

Q. (By Mr. Talan): That’s right.

A. They can any time come over to our house and live, too.

Q. I direct your attention to page 14 and ask

(Testimony of Wong Ken Foon.)

whether you gave the following answer under oath to this question:

“Q. Have your family and the family of your brother, Wong Ken Fook, ever lived together in the same house, to your knowledge?”

“A. No, not to my knowledge.”

A. My meaning was because our house was handed down from our ancestors, that they have the right to come any time and live. What I meant was the permanent living, that they [117] don't live together with us.

Q. Did you make that answer?

A. My answer was the interpretation, “No, not permanently living with us, but they did come over whenever they can, because it is an ancestral home left for all of us to enjoy.”

Q. When you were last in China in the village of Nam On who occupied the last house in the tenth row counting from the west?

A. Wong Wah See.

Q. Did anybody else live in the same house with Wong Wah See? A. The family.

Q. What did his family consist of?

A. His wife and two daughters.

Q. How old were the daughters at that time?

A. Not very big.

Q. Can you tell us what their ages were at that time?

A. Perhaps about seven years old or so.

Q. Were they both seven?

(Testimony of Wong Ken Foon.)

A. I don't know, really, but I am just guessing seven or eight.

Q. When you were last in the village of Nam On in the year 1933, who occupied the first house in the seventh row of the village counting from the west? [118]

A. Wong Nguay Jim.

Q. Who else lived there in the house with Wong Nguay Jim?

A. Wife, a boy, a son.

Q. How old was the boy?

A. Several years old.

Q. About how many would that be, about how many would several years be?

A. Maybe four or five.

Q. What was this boy's name?

A. I don't remember the name.

Q. When you were last in the village of Nam On, how old a man was this Wong Wah See who lived in the house in the tenth row of the village counting from the west?

A. In his fifties, I think.

The Court: You testified a little while ago that his family lived in that house.

The Witness: Yes.

The Court: Did his wife live in the house?

The Witness: Yes.

The Court: And children?

The Witness: I think the time when I was there, they had children.

The Court: How old were the children?

The Witness: I don't know how to tell the little children, [119] but four, five, seven or six years old.

(Testimony of Wong Ken Foon.)

The Court: Were they boys or girls?

The Witness: Girls, all girls.

The Court: Do you know who lives in the house now?

The Interpreter: That is in the tenth row?

The Court: Yes.

The Witness: I think the parents are still living there, Mr. and Mrs.

The Court: But you are sure that these were all girls?

The Witness: According to my knowledge, I think they were girls.

The Court: Your alleged son testified before the immigration authorities:

“The one I mean is at the tail end, counting from the west; that would be on the east side; and that belongs to Wong Wah See.

“Q. How do you happen to remember the owner of that house when you can't remember the owners of the houses next door to yours?

“A. He is a bachelor, that lives in that little house, just a little bit older than I am so I visited him all the time.”

The Witness: I am talking about the age of this man at this time, which would be 50 something.

The Court: How many years ago was it when you were in [120] China?

The Witness: About 20 years ago.

The Court: So when you were in China he was about 30 then?

(Testimony of Wong Ken Foon.)

The Witness: I thought he was in his thirties. I never asked his age.

The Court: You thought he was about in the thirties?

The Witness: Yes.

The Court: At that time your boy was how old?

The Witness: He was very small, a few years old.

The Court: Wasn't he about six or seven?

The Witness: Yes.

The Court: And this family that lived in the house didn't have any boys, they were all girls?

The Witness: Maybe it is a mistake. I don't know.

The Court: I notice it's 12:00 o'clock. I think this is a pretty good place to break. We will now recess until 2:00 o'clock this afternoon.

Thereupon, a recess was taken to 2:00 [121] p.m.)

March 25, 1953, 2:00 P.M.

The Court: You may proceed.

Mr. Brennan: Your Honor, as I returned this noon, the witness asked me if he could make a correction in one item that he covered this morning.

The Court: You mean the present witness?

Mr. Brennan: Yes, your Honor.

The Court: Yes, he can make any explanation he wants to. Let him take the stand.

WONG KEN FOON

the witness on the stand at the time of recess, hav-

(Testimony of Wong Ken Foon.)

ing been heretofore duly sworn, resumed the stand and testified further through the interpreter as follows:

Mr. Brennan: Will you tell the witness anything he wishes to say in correction of any statement he made this morning he may do so.

The Witness: I want to correct the point that the seventh row and first house, the person who lived there should be Wong Wing Yen.

The Interpreter: The Wing could be W-e-n, according to pronunciation.

Mr. Brennan: With the court's permission, may I ask the interpreter if there is a noticeable similarity in the word, [122] the Chinese word that is used, that we would interpret alley and the Chinese word that we would interpret row of houses?

The Interpreter: Mr. Attorney, the intonation is the variation. The words are different when written. If you raise your voice a bit and talk, it is another word. It just happened that these two words have the same sound.

Mr. Brennan: Will you give the Chinese word for alleyway and then the Chinese word for row, following one right after the other?

The Interpreter: Alley would be hong and the row would be hong. There are four tones to a Chinese character and sometimes when you just mention one sound, unless you have the context, it could be mistaken.

Mr. Brennan: I thought I would call that to the Court's attention. It was just called to my atten-

(Testimony of Wong Ken Foon.)

tion during the noon hour, your Honor. That's all I have. Thank you.

Mr. Talan: Along the same line, what is the word for house in Chinese?

The Interpreter: Oak.

Mr. Talan: There is no similarity between that word and the word for alley, is there?

The Interpreter: No. [123]

Cross-Examination

(Continued)

By Mr. Talan:

Q. When you were last in China in Nam On Village about the year 1933, who occupied the fourth house in the sixth row, that is the house directly south of the one in which you lived?

A. Wong Sai Hor, Hall, or Ho.

Q. Who else lived in the house besides Wong Sai Hor?

A. All I know, Mr. Wong Sai Hor and the wife lived there.

Q. Did they have any children living there at that time?

A. I don't remember.

Q. Do you know whether or not they have any children?

A. Maybe if they had a son, if he is young, I wouldn't know.

Q. At the time you were in China on this last visit some time in 1933 and you were living in Nam On Village, the only two people living at that time

(Testimony of Wong Ken Foon.)

in the fourth house, sixth row, were Wong Sai Hor and his wife, is that correct?

A. I am not sure whether there were any children in the house or not.

Q. You don't recall any children at that time?

A. It seems I have seen a boy in the house that belonged to them, the household. I don't know who the boy is.

Q. About how old was this boy that you saw in the household? [124]

A. Very small.

Q. When you were last in Nam On Village in and about 1933, were there any vacant lots in the village at that time?

A. There may be some, but I don't remember whether there were any or not.

Q. When you were in Nam On Village in 1933, who occupied the first house of the first row counting from the west of the head of the village?

A. Wong Don Soon.

Q. Who else lived in that house with Wong Don Soon?

A. His family.

Q. What members of his family, who were the members of his family living in that house?

A. The wife and, I think, a son.

Q. Do you know their names?

A. I think the boy's name was Wong Loy Gin or Jin.

Q. How old was this boy at that time?

A. I guess about four or five years old.

Q. At this time while you were visiting China in 1933, were there any other structures on that first

(Testimony of Wong Ken Foon.)

lot of the first row, counting from the head of the village?

A. There was a girl's home there.

The Court: There was a what?

The Witness: A girl's home, a girl's school. There [125] were two structures. One for the girls, a sort of dormitory, and the other is a sort of girls' school.

Q. (By Mr. Talan): In other words, there were three structures on this first lot in the first row, is that correct? A. Yes, three.

Q. When you were last in China in Nam On Village in 1933, who occupied the third house of the sixth row counting from the west?

A. Wong Don You.

Q. Who lived in this house with Wong Don You during the time you were in China?

A. Wife and son.

Q. And what are their names?

A. We Chinese just called the wife such-and-such a madam, but the son's name, I don't remember.

Q. About how old was this boy that lived in this third house in the sixth row?

A. About eight years old or nine.

Q. When you were last in China in Nam On Village, who occupied the second house in the sixth row? A. Wong Wah Koon or Quoon.

Q. Who else lived in the house, if anybody, with Wong Wah Koon?

A. I know that he has a wife. I don't know whether [126] they have children or not.

(Testimony of Wong Ken Foon.)

Q. When you were last in China in 1932, who occupied the first house in the sixth row counting from the west?

A. Wong Nguen Doon, D-o-o-n, or D-u-e-n.

Q. Who else lived in that house, if anybody?

A. At that time I know that the wife was living with him.

Q. Were there any children in the house at that time? A. I am not sure of that.

Q. At the time you were in China in 1933, in Nam On Village, was there a person by the name of Wong Sai Wing living in the village?

A. Yes.

Q. Where did he live?

A. I think about the eighth row, the fourth house from the west.

Q. That is counting from the west?

A. The fourth house.

Q. When you were in China in 1933 and living in the village of Nam On, was there a person by the name of Wong Sai Koon living in the village?

A. I can't recognize that name.

Q. W-o-n-g S-a-i K-o-o-n.

A. I can't recognize that name.

Q. What land do you own in the village of Nam On? [127] A. I have none.

Q. The house where you lived when you were in China in 1933, to whom does that belong?

A. According to Chinese convention, that house is mine because it was handed down from my ancestors.

(Testimony of Wong Ken Foon.)

Q. Do you have any relatives in the village who own land there?

A. My father has a piece of land handed down, rice field, planting of rice.

Q. Who owns that land now?

A. My mother's.

Q. Do your brothers own any land in Nam On Village? A. You mean the fields?

Q. I mean land.

A. I am not sure whether he has any or not.

Q. Who is "he"?

The Interpreter: Didn't you ask about a brother?

Q. (By Mr. Talan): Do any of your brothers own any land in the village of Nam On?

A. I don't know, any of my brothers, whether they own anything.

Q. Do any of your brothers own any houses in the village of Nam On?

A. I think the one across the way from us belongs to him. [128]

Q. Who is "him"?

A. My older brother.

Q. When did you last see the plaintiff in this case, Wong Hing Goon?

A. The last time?

Q. When did you last see the plaintiff in this case?

The Court: The last time was probably this noon.

Mr. Brennan: Or right now.

Mr. Talan: I will withdraw the question and rephrase it.

Q. When did you see the plaintiff in this case,

(Testimony of Wong Ken Foon.)

Wong Hing Goon, in China? A. CR 22.

The Interpreter: 1933 or early 1934.

Q. (By Mr. Talan): You never saw him since then until you saw him again in the United States?

A. Yes.

Mr. Talan: I have no further questions, your Honor.

Mr. Brennan: With the court's permission, one or two questions, if I may reopen direct examination?

The Court: All right.

Mr. Brennan: May we have these marked with two separate numbers for identification?

The Court: They may be marked for identification only as Plaintiff's Exhibits 7 and 8.

The Clerk: So marked, your Honor, 7 and 8, for identification [129] only.

(The documents referred to were marked Plaintiff's Exhibits 7 and 8 for identification.)

Redirect Examination

By Mr. Brennan:

Q. I show you a document, plaintiff's Exhibit 7 for identification, entitled, "Optional U. S. Individual Income and Victory Tax Return—Calendar Year 1943," and ask you if you were present and saw that made out? A. Yes, I was there.

Q. Did you have someone make this out for you?

A. Yes.

Q. Do you know who that was?

(Testimony of Wong Ken Foon.)

A. So long ago, I can't recall.

Q. Whoever it was that made it out for you, what did he do with Plaintiff's Exhibit 7?

A. The original?

Q. No, this one.

A. Sent it for the tax bureau.

Q. That is the original. I want to know when he got this paper I am now holding, Plaintiff's Exhibit 7 for identification?

A. I was keeping it at home.

Q. Did the man that made it out at the time it was made [130] out hand it to you and did you keep it until now? A. Yes.

Q. When he made this paper out for you, did he also make another one that was mailed in to the Collector of Internal Revenue?

A. That's right.

Q. And the information that was put down by him on this paper, Plaintiff's Exhibit 7 for identification, was that information furnished by you to him when he put it down on the paper?

A. Yes.

Q. Did you furnish him with the information to put under the heading, "Your credit for dependents, Tun Kim Wong and Tun Goon Wong"? Did you furnish that information to him?

A. I don't know the spelling, whether it is right or not, but I gave the names for him to write it down for me.

Q. What names did you give him for your two sons to put down?

(Testimony of Wong Ken Foon.)

A. Wong Hing Goon and Wong Hing Jin.

Q. When you gave that information to him, were you referring to your younger son and to the plaintiff who is sitting at the counsel table as your two sons? A. Yes.

Q. After this paper was handed to you, were there any changes made on this paper since 1944, or whatever date that [131] was upon which that was made out? Have there been any changes on it since you got the paper from the man that made it out? A. Not much change.

Mr. Talan: What was the answer?

Mr. Brennan: Not much change.

Q. Was there any change? Have you changed anything on it? A. No change.

Q. At the time you had this made out, did you give the person that made it out the original of Plaintiff's Exhibit No. 5, which is the statement of income tax withheld on wages, did you give the original of this to the man that made out the original of Plaintiff's Exhibit 7 for identification?

A. Yes.

Q. Did you keep Plaintiff's Exhibit 5 with you stapled to Plaintiff's Exhibit 7 for identification until you handed them to me yesterday?

A. Yes.

Mr. Brennan: At this time, for what it is worth, your Honor, we would like to introduce in evidence Plaintiff's Exhibit No. 7.

Mr. Talan: I object, your Honor, on the basis

(Testimony of Wong Ken Foon.)

that this is not the best evidence. We have no evidence that the original is not available.

The Court: Overruled. I think I can take judicial notice [132] of the fact that these forms are destroyed after a certain length of time. This may be introduced as Plaintiff's Exhibit 7.

The Clerk: So marked, your Honor.

(The document referred to was received in evidence and marked Plaintiff's Exhibit No. 7.)

Q. (By Mr. Brennan): I will show you Plaintiff's Exhibit No. 8 for identification, headed, "U. S. Individual Income Tax Return for the Calendar Year 1944," which appears to be a carbon copy, and ask you if the original and this copy were made out in your presence? A. Yes.

Q. Do you remember who it was that made it out for you? A. I don't remember the name.

Q. Whoever it was that made it out for you, after he completed making the original and this out, did he give this paper to you that I am now holding, being Plaintiff's Exhibit 8 for identification? A. Yes.

Q. At the time this party made this out for you, did you furnish him with the information that is contained on this as to the name Wong Ken Foon, the address, and the name of the two sons along with the mother and wife that appear on here, Wong Tun Goon and Wong Tun Kim? [133]

A. Yes.

Q. At that time did you work for the Wong Jew

(Testimony of Wong Ken Foon.)

Produce Company at South Gate? A. Yes.

Q. Do you know what happened to the original of this paper that is Plaintiff's Exhibit 8 for identification? A. To the tax bureau it was sent.

Q. At the time this paper was made out, referring to Plaintiff's Exhibit 8 for identification, was there attached to the original of that, the original of Plaintiff's Exhibit 6? A. Yes.

Q. And at the time Plaintiff's Exhibit 8 was handed to you at the time it was made out by this party you are referring to, did you have attached to it or stapled to it Plaintiff's Exhibit 6?

A. Yes.

Q. From the time that it was handed to you in 1945, or whenever this was prepared, has it remained in your possession up until the time you handed it to me either yesterday, or it may have been possibly Friday of last week? A. Yes.

Q. Have you made any changes in Plaintiff's Exhibit 8 for identification since it was handed to you by the party that prepared it in your [134] presence? A. No.

Mr. Brennan: We offer in evidence for whatever it may be worth, your Honor, Plaintiff's Exhibit 8 for identification.

The Court: Same objection, same ruling. It may be received.

The Clerk: So marked.

(The document referred to was received in evidence and marked Plaintiff's Exhibit No. 8.)

(Testimony of Wong Ken Foon.)

Q. (By Mr. Brennan): When you went to work for the Wong Jew Produce Company, did you give someone there the number of dependents you had? A. Yes.

Q. What dependents did you give them?

A. My wife, two sons, and my mother.

Mr. Brennan: That's all. Cross-examine.

Mr. Talan: We have no questions, your Honor.

The Court: You may step down.

(Witness excused.)

Mr. Brennan: At this time may the witness be returned to the witness room and may we have Mr. Frank Wong? [135]

WONG WING YEN

called as a witness by and on behalf of the plaintiff herein, having been first duly sworn, was examined and testified as follows:

The Clerk: Be seated and state your name.

The Witness: Wong Wing Yen.

Direct Examination

By Mr. Brennan:

Q. What is your address?

A. I live at 1725 West 41st Place, Los Angeles, California.

Q. Do you know Wong Wing Goon who is sitting at counsel table, and the party I am asking to rise? A. Yes.

Q. Where did you first see him?

(Testimony of Wong Wing Yen.)

A. In China.

Q. When?

A. About the end of the sixth month, 1946.

Q. Where in China did you see him?

A. At his home.

Q. Where was his home located, what village?

A. Nam On Village.

Q. Before you went to Nam On Village, did you live in the United States? [136] A. Yes.

Q. Did you know Wong Ken Foon in this country before you went to China? A. Yes.

Q. To identify him, is that the person who has been in the witness room with you and in and around the courtroom and in the halls here yesterday and today? A. Yes.

Q. That is the man that just went into the witness room as you came out just a few moments ago, is that correct? A. Yes.

Q. When you went to China in 1947, did he ask you to do something for him?

A. He gave me money to forward to his wife and some fountain pens for the children.

Q. Did he tell you where his wife and children were where you were to deliver these things?

A. Yes. He said at Nam On Village.

Q. To what village did you go on that trip before going to Nam On Village?

A. Nam Lok Village.

Q. How far is Nam Lok Village from Nam On Village? A. Half a li.

Q. Did you go to that village first before going

(Testimony of Wong Wing Yen.)

to Nam On Village? [137] A. Yes.

Q. How many times did you go to Nam On Village?
A. Once.

Q. When you went to Nam On Village, what did you do when you got to the village about delivering this money and the fountain pens?

A. When I arrived at the village, I encountered some villagers, some person there, and I asked where they lived.

Q. You asked where who lived?

A. Because Wong Ken Foon asked me to bring something to the home to the mother of Wong Hing Goon, so when I arrived in the village, I asked the villagers where did they live, Wong Hing Goon's family.

Q. And was there a place pointed out to you by the villagers?

A. The villagers brought me to the row there and pointed out that the house over there is the house.

Q. Did you go to the house that was pointed out?

A. Yes.

Q. When you got to that house, who did you see around the house?

A. First the two sons. Later on one of the sons went in and summoned the mother out from the bedroom, I presume.

Q. Then after the one son left into another room, then the mother came out, is that right? [138]

A. I think one of the boys just merely got close

(Testimony of Wong Wing Yen.)

to the bedroom or inner room and say, "Mama, somebody is here to look for you."

Q. Then immediately after that were all three, the two boys and the woman, in the room?

A. Yes.

Q. Tell us what you said and what they said, just what happened there?

A. I told her that, "Your husband has given me \$50 U.S. and two pens to be forwarded to you all."

Q. Was anything else said, any other thing said at that meeting?

A. The wife asked me how the husband is over in the United States at that time. I told her that his health was good and everything is fine, and he asked her not to worry about him.

Q. I show you Plaintiff's Exhibit 4 and ask you if you recognize the people in that picture.

A. The middle one is the mother and this is Hing Goon.

Q. Is that the boy sitting at counsel table?

A. Yes.

Q. Who is the other boy?

A. The younger brother.

Q. Are these three people you just pointed out the three that you saw in the house in Nam On Village in 1947? [139]

A. Yes.

Q. I show you Plaintiff's Exhibit 3 and ask you if you have ever seen that picture or a picture like it in China.

A. The middle one is the mother.

The Court: That is not the question.

(Testimony of Wong Wing Yen.)

The Interpreter: But that is the question he gave.

Mr. Brennan: Will you read the question, please?

(Question read.)

The Witness: No, I haven't seen this.

Q. (By Mr. Brennan): How long were you in this home on this trip? A. About 15 minutes.

Mr. Brennan: Cross-examine.

The Court: Well, before we start the cross-examination, maybe we'd better take our afternoon recess. We will recess until 5 minutes after 3:00.

(Recess.)

The Court: You may proceed. [140]

Cross-Examination

By Mr. Talan:

Q. Are you related to Wong Ken Foon?

A. A friend.

Q. How long have you known Wong Ken Foon?

A. About 10 years.

Q. Where did you first meet Wong Ken Foon?

A. I don't remember the exact time.

Q. Did you first meet him in China?

A. No.

Q. When you returned from this trip in 1947, to what city did you return in the United States?

A. I didn't come back in 1947.

Q. My question was, when you returned from

(Testimony of Wong Wing Yen.)

this trip that you made in 1947, to what city in the United States did you return?

A. I first landed in San Francisco.

Q. What was the date of your arrival in San Francisco? A. That I don't remember.

Q. Approximately.

A. Chinese New Year's, about Chinese New Year's time.

Q. Of what year? A. 1948, I returned.

Q. How did you travel back to the United States from China on that trip? [141]

A. By steamer.

Q. What was the name of the ship?

A. Cleveland.

Q. Did you have a certificate of identity?

A. Yes, I have one.

Q. Do you remember the number of it?

A. I don't know exactly which document you are referring to.

Q. What kind of a document did you have on this trip? A. Passport.

Q. What kind of a passport was this?

A. It was a greenish color, a booklet with my picture in it. There was a number through sort of a window cut on top of the cover there, but I can't recall the number.

Q. Was this a United States passport?

A. Yes, issued by the United States.

Q. How were you admitted back into the country?

(Testimony of Wong Wing Yen.)

A. Citizen. I left as a United States citizen, also.

Mr. Talan: I have no further questions, your Honor.

Mr. Brennan: No questions. May this witness be excused, your Honor?

The Court: You may be excused.

(Witness excused.) [142]

Mr. Brennan: If the Court please, that is the plaintiff's case with the exception that we raised Monday when we were in asking that the matter be set over. I don't know what your Honor's attitude will be, but we have, as I indicated, started the machinery as of Saturday in having the boy's mother, the wife of Wong Ken Foon, the wife of the alleged father, come to the United States. We feel that your Honor can have the advantage of her direct testimony and that it would be very helpful.

The Court: Before we talk about that, let's find out about the government case. You have rested your case. I don't know what testimony the government has.

Mr. Talan: We have no testimony, your Honor.

The Court: Then the case is submitted with the exception of the request of the plaintiff for a continuance in order to allow the mother to be brought here, is that correct?

Mr. Talan: Well, we are not willing to have this case continued.

The Court: I didn't say that.

Mr. Talan: You are correct.

The Court: I said with the exception of that request.

Mr. Talan: Yes. I am sorry. I misunderstood.

The Court: There is no further testimony?

Mr. Talan: No further testimony.

The Court: Mr. Brennan, I would be more than willing to [143] continue the case for the testimony of the mother, if I thought that testimony would be of any avail, but supposing the mother came over here and testified. She couldn't offset the testimony of the plaintiff, the boy. There were two hearings at the Immigration Service and as a result of both of those hearings, the investigation officers didn't believe the plaintiff ever lived in the village. I don't know if he lived in the village or not. But I am satisfied he doesn't know much about it. You can't tell me a boy can grow up in a community of 40 or 50 houses and not know the people who live next door, not know the people who live in which houses. I think human nature is about the same as it was 2,000 years ago. It doesn't change. I think a boy is a boy regardless of whether he is in China, the United States or Russia. Boys are always going around visiting. It seems improbable that a boy living in a community, growing up in a community for 20 years, wouldn't know the community in which he lives. It just doesn't add up.

If the mother would come over here and testify that this is the boy, still we have the conflict of testimony. We have the boy's own statement.

After all, we have to rely upon the statement of

the boy, particularly this statement of the boy about the last house to the east, Wong Wah See's house. The testimony of the father and the testimony of the son don't jibe at all. He said he went down there because there was a bachelor he [144] visited down there. The father not only testified here but testified at the immigration hearing that Wong Wah See was married, had two girls.

Also, the father testified here that originally Wong Wah See was about 50 years of age. Then he changed his testimony and said he meant 50 years of age now. So the way he figured, he would be about 30 years of age then. But I notice when he testified in the immigration hearing, he gave the age at the time of the visit of 50 years. It wasn't now, but at the time of the visit. The question was asked the father, "When you were last in China, who occupied the house standing by itself in the tenth row, that is the house at the tail end of the village?"

He said, "Wong Wah See."

Then he was asked, "How old was Wong Wah See when you were last in China?"

He said, "He was in his forties, nearly fifty."

Today he changed the testimony on us. He said he meant he was nearly 50 now.

He was asked if he any daughters and he said, "Yes, two daughters."

So the only thing he has done is change the testimony as to date. If the father testified correctly that Wong Wah See occupied that building, lived there with his wife, had two children, then I don't

know how we can believe the plaintiff's [145] testimony that he used to go down and visit with Wong Wah See because he was a bachelor.

Mr. Brennan: May I make a comment on that one thing, your Honor?

The Court: Yes.

Mr. Brennan: It has occurred to me, I noted that same apparent discrepancy, that the father left and last was in the village when the boy was six or seven years of age. It may be that we could have some light shed upon it, whether there were two separate occupants, one before the boy started visiting the bachelor in that location. Both may be referring to the same house and different families. The boy's recollection obviously starts some time, in all probability, after his father had left. Both statements could be true and we could reconcile them under that theory. The only one who would know what that situation continuously was up to the time they left would be the mother. On that very situation, it occurred to me the mother would be able to shed light.

As to the father's uncertainty of the age or, as you have indicated, a change of testimony, I don't think there could be any question in any of our minds but what the father was in that village.

The Court: Mr. Brennan, there is no question in my mind that there were two boys born to this father and the mother.

Mr. Brennan: In that village? [146]

The Court: In that village. Now the question comes up in all these cases whether or not there has

been a substitution. You remember the last witness you had here, he went there in 1947. He went down to see the mother. He was there for 15 minutes. He said he saw the mother and two boys. He never testified that the mother ever said, "These are my two sons." He never did say that. He just assumed that they were. The fact that the two boys were there is no indication that they were the children of the father here.

But the thing that bothers me is here is a boy who lived for 20 years in one house and right across the alleyway, it can't be more than 10 or 12 feet, is an aunt. He didn't even know the name.

Then he isn't certain, and time after time down in the immigration office he said, "I don't know the name of anybody in the village."

Mr. Brennan: Obviously on that there is no question but what under any theory that was not a correct statement, because he had given some, and then subsequent to that there were one or two names, as I recall the transcript, that came into existence.

One other thing, whenever the chart was referred to, he has always been able to identify from the chart, and apparently when they were questioning him as to where people lived or names of people that lived in certain houses on the [147] chart, there is no inconsistency whatsoever. He has had an opportunity to see the chart.

The Court: I think that the boy can go back to China where the mother is and with this testimony can then make application to the committee that is

sitting over there. The mother is there and maybe the mother can straighten out these discrepancies. There are entirely too many discrepancies in this case to allow me to admit the plaintiff.

Mr. Brennan: At the time of the hearing and I am sure the documents will bear this out, the mother and the boy were before the authorities, the consulate in Hong Kong, and when the mother and the boy were there, there were no discrepancies and apparently no difficulty in making a prima facie showing, so that if we have to go through that process again, we will run into exactly the same situation.

The Court: No. Because the law has been changed, Mr. Brennan. Under the McCarran Act, there is a new committee that is to process these cases. As far as I understand, these proceedings do not prohibit the boy at another time making an adequate showing, but it does mean he is going to have to go back there and make a showing under the new law and you will have the record there, have this testimony, and these discrepancies are going to have to be explained.

We have tried a number of these cases, I think about 20 of them now, 22 or 23, and the thing that impresses me always is the memory these folks have. They can usually remember the names and places and location of houses in the village, and the first born and what not. Now we have a boy here who lives in the community for 20 years. He doesn't remember. He gives an excuse. He has been away from the village so long. That is three or four

years. That doesn't have any effect on the rest of the Chinese boys.

I am amazed sometimes at how well they can remember. They can remember a great deal better than I can. It doesn't seem to me that the plaintiff in this case has established or has carried the burden to such an extent that we can say that he is the son of the alleged father. Either the father is not telling the truth or the boy is not. I am rather inclined to believe it is the boy, rather than the father.

Mr. Brennan: Of course it is as part of the burden that we would like to have the mother come over and give her testimony.

The Court: The mother couldn't in any way help out the testimony of the boy. All the mother can say is, "This is my boy. This is my son who lived in the village."

The mother is going to have to do one of two things. She is going to have to substantiate the testimony of the boy or she is going to have to describe the village and if she describes the village, then the question comes up on what the boy didn't [149] know.

The judgment in this case will be for the defendant.

I will say the judgment will be without prejudice for him to establish, if he can, in a proper procedure in China with the testimony of the mother this relationship. I am not taking that away from him.

I still think he has the right, if he can, to bring in the mother over there and allow the authorities to review the entire testimony we have before the

immigration authorities. It may be that these discrepancies can be explained away. If they can be, then he can be admitted.

You will prepare findings of fact. [150]

Certificate

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above-entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 14th day of September, 1953.

/s/ S. J. TRAINOR,
Official Reporter.

[Endorsed]: Filed October 1, 1953. [151]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 22, inclusive, contain the original Petition to Establish Nationality; Declaratory Judgment etc.; Answer; Stipulation and Order for Substitution of Herbert Brownell, Jr., as Party Defendant; Minutes of the Court for March 25, 1953; Findings of Fact and Conclusions of Law; Judgment; Notice of Appeal; Order Extending Time on Appeal and Designation of Record on Appeal which, together with Reporter's Transcript of Proceedings on March 24 and 25, 1953, and original Plaintiff's Exhibits 1 to 8, inclusive, and Defendant's Exhibit A, transmitted herewith, constitute the record on appeal to the United States Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.00 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 12th day of October, A.D. 1953.

[Seal]

EDMUND L. SMITH,
Clerk;

By /s/ THEODORE HOCKE,
Chief Deputy.

[Endorsed]: No. 14080. United States Court of Appeals for the Ninth Circuit. Wong Ken Foon, as Guardian Ad Litem for Wong Hing Goon, Appellant, vs. Herbert Brownell, Jr., Attorney General of the United States, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed October 13, 1953.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 14406-HW

WONG KEN FOON, as Guardian Ad Litem for
WONG HING GOON,

Appellant,

vs.

HERBERT BROWNELL, JR., as United States
Attorney General,

Appellee.

STATEMENT OF POINTS AND
DESIGNATION OF RECORD ON APPEAL

To the Honorable United States Court of Appeals
for the Ninth Circuit:

Comes now the appellant, Won Ken Foon, as
Guardian Ad Litem for Wong Hing Goon, and sets
forth his statements on appeal and designation of
the record on appeal as follows:

Statement

I.

The trial court erred in allowing in evidence the
transcript of the immigration hearing in February,
1952, which said transcript incorporated questions
and answers of a preliminary hearing in January,
1952.

II.

The court erred in indulging in conjecture in re-
lation to the conduct of plaintiff Wong Hing Goon
with regard to his habits of play and associations

in his native village in China rather than indicating evidence as actually adduced.

III.

The Court erred and abused its discretion in not permitting a continuance of the trial for the taking of the testimony of the mother of plaintiff.

IV.

The court erred in not declaring the plaintiff, Wong Hing Goon, a citizen of the United States, in view of the lack and failure of any evidence to the contrary adduced or introduced by the defendant.

Designation of Record

1. All of reporter's transcript of proceedings on trial.
2. Complaint.
3. Answer.
4. Findings of Fact and Conclusions of Law.
5. Judgment.
6. Notice of Appeal.
7. Order extending time to docket appeal.
8. Stipulation and order substituting party defendant.
9. All exhibits.
10. This Designation.
11. Any Designation by Appellee of additional portions of Record on Appeal.

/s/ WILLIAM E. CORNELL.

Dated: October 21, 1953.

[Endorsed]: Filed October 26, 1953.